

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between

**STATE OF NEW JERSEY,
DIVISION OF STATE POLICE,**

"Public Employer,"

-and-

**STATE TROOPERS FRATERNAL
ASSOCIATION,**

"Employee Organization."

**INTEREST ARBITRATION
DECISION
AND
AWARD**

Docket No. IA-97-7

**Before
James W. Mastriani, Arbitrator**

Appearances:

For the Employer:

Desmond Massey, Esq.
Beth A. Hinsdale, Esq.
Grotta, Glassman & Hoffman, P.A.

For the Union:

Richard D. Loccke, Esq.
Loccke & Correia, P.A.

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I was appointed arbitrator by the New Jersey Public Employment Relations Commission on in accordance with *P.L. 1995, c. 425*, in this matter involving the State of Jersey, Division of State Police (the "State") and the State Troopers Fraternal Association (the "STFA"). The issues were narrowed in pre-arbitration mediation. Because the impasse was not resolved, formal interest arbitration hearings were held on March 2, 4 and 23, 1998 and May 18, 20 and 28, 1998 and June 6, 1998. The mandatory terminal procedure of conventional arbitration was used to decide all issues in dispute. Under this procedure the arbitrator has the authority to fashion an award which he believes represents the most reasonable determination of the issues in dispute.

The STFA represents 1855 rank and file New Jersey State Troopers.

In March of 1998, the STFA filed a Motion to dismiss the State's negotiations proposals because the State's initial response to its petition to invoke interest arbitration was untimely and because the State did not submit its "final offer" within ten (10) days of the initial hearing, pursuant to *N.J.A.C. 19:16-5.7(f)*. On May 25, 1998, I denied STFA's motion, finding the State's initial response was filed pursuant to an extension granted by PERC. I also found that the State, in filing its final offer after two days of hearing, exceeded the flexibility I had provided. However, I concluded that removal of all issues proposed by the State which are beyond the scope of the issues presented by the Association was not an appropriate sanction.

At the arbitration hearing, each party argued orally, examined and cross-examined witnesses, and submitted extensive documentary evidence into the record. The STFA filed a post-hearing brief on August 12, 1998. The State filed a post-hearing brief on August 28, 1998 and a rebuttal brief on September 21, 1998. The SFTA filed a rebuttal brief on September 28, 1998.

FINAL OFFERS OF THE PARTIES

The STFA and the State submitted the following final offers:

State Troopers Fraternal Association¹

Economic Issues

1. Duration—July 1, 1996 through June 30, 2000
2. Salaries—

Across the board salary increases as follows:

4.5% effective July 1, 1996
4.5% effective July 1, 1997
4.5% effective July 1, 1998
4.5% effective July 1, 1999

¹ The position of the STFA as stated here is its final position as modified during the course of the proceedings in this matter. The parties mutually agreed to allow for such revisions prior to the close of hearings.

3. Training—

- A. One hour per day, or equivalent pay at the overtime rate, for physical fitness training and conditioning.
- B. Availability of appropriate and well maintained exercise equipment for all employees, either at work or within a reasonable distance from the respective employees' residence.

4. Educational Incentive—

- A. Each member be paid at the annual rate of \$15.00 per credit earned on an annual basis through the Master's level achievement. This entitlement to said benefit would commence with the proof of successful completion of the course. Thereafter, the employee would receive \$15.00 per credit, time the number of credits earned for the balance of said employee's career.
- B. The phrase "subject to the availability of funds" should be removed from the current contract. Therefore tuition payment would be assured and paid promptly upon presentation of bills.

5. Grievance Procedure—

All grievances should be subject to binding arbitration. Any claim of management that a grievance should not go to binding arbitration would be dealt with on a case by case basis.

6. Discipline—

- A. All Phase IV grievances be conducted before a Deputy Attorney General.
- B. The addition of disciplinary language to the current contract.

DIVISION OF STATE POLICE²

1. Duration—July 1, 1996 through June 30, 2000

2. Salary—

	<u>To Base</u>	<u>Bonus (not on base)</u>
7/1/96	0%	0
7/1/97	0%	\$1,000 (upon issuance of Interest Arbitration Award)
7/1/98	2%	0
1/1/99	1%	0
7/1/99	2%	0
1/1/00	1.25%	0

3. Shift Differential (Article X, Par.E.2)—

Modify the language of Article X, Par. E2 as follows:

“Employees who are scheduled to work between the hours of 11:00 p.m. and 6:00 a.m. shall be granted special compensation computed at the rate of five percent (5%) of their base hourly rate...”

In addition, add language clarifying that an officer must work at least half his hours during the period between 11:00 p.m. and 6:00 a.m. in order to qualify for the differential.

² The position of the State as stated here is its final position as modified during the course of the proceedings in this matter. The parties mutually agreed to allow for such revisions prior to the close of hearings.

4. Tuition Reimbursement (Article XI)—

Limit all tuition reimbursement to Master's level and below. Course work above a Bachelor's degree must be job related as determined by the State to qualify for tuition reimbursement.

5. Double Increments (Article X, Par. B4)—

Eliminate double increments.

6. Elimination of Fast Track—

Eliminate all automatic class promotions to Trooper II and Trooper I.

7. Hours of Work (Article V, Par. A.4)—

Modify the paragraph to provide that "any scheduled change of shift which is effective on less than twenty-four (24) hours notice to the employee shall cause the entire work obligations so changed to be paid at the overtime rate... The twenty-four (24) hour notice period shall be calculated from the time that the extra work, overtime work, is completed."

8. Specialist Selection (Article IX)—

Modify the language of paragraph A as follows: "Normally, except as Division needs require, and except for reassignment within a section, position vacancies for Specialists will be announced via teletype specifying the appropriate criteria to be met by applicants."

9. For all New Hires (i.e. Troopers in the 118 Class forward) –

A. Implement a new salary scale as follows:

Trooper III (\$1500 increments)

Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
\$30,000	\$31,500	\$33,000	\$34,500	\$36,000	\$37,500	\$39,000	\$40,500	\$42,000

Trooper II (\$1500 increments)

Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
\$35,000	\$36,500	\$38,000	\$39,500	\$41,000	\$42,500	\$44,000	\$45,500	\$47,000

Trooper I (\$1500 increments)

Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
\$40,000	\$41,500	\$43,000	\$44,500	\$46,000	\$47,500	\$49,000	\$50,500	\$52,000

- B. Eliminate all maintenance allowance payments (Article X, Par. B.5).
- C. Eliminate shift differential for first two years of employment.
- D. Eliminate all tuition reimbursement.

The State and the STFA have offered extensive documentary evidence and testimony in support of their final offers. 71 State and 65 STFA exhibits were received in evidence. In addition, both the State and the STFA offered oral testimony from witnesses as described fully within this award.

I am required to make a reasonable determination of the above issues giving due weight to those factors set forth in *N.J.S.A. 34:13A-16g(1)* through (8) which I find relevant to the resolution of these negotiations. I am also required to indicate which of these factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor. These factors, commonly called the statutory criteria, are as follows:

(1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by (P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.)).

(2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

(a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995. c. 425 (C.34:13A-16.2) provided, however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq.).

(6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element, or in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

BACKGROUND

The State Troopers are employed by the New Jersey Division of State Police. The Division is the ultimate law enforcement authority in the State of New Jersey. It is a division of the Department of Law and Public Safety. The Division is responsible for general policing services, general highway and traffic enforcement, statewide investigation and intelligence services, emergency management, support for state and

local law enforcement, maintenance of criminal record and identification systems and regulation of certain commercial activities. The Division is broken down into nine sections. Review of the operations of these sections illustrates the diversity of the responsibilities of the Division of State Police. The Field Operations Section coordinates all inter-troop and intra-Division operations involving special events, crowd control, prison riots, disasters, traffic programs, and interstate highways. The Investigations Section, with 238 sworn members, directs, coordinates and controls the Criminal Investigations Bureau, Criminal Enterprise and Racketeering Bureau, and the Special Investigations and Services Bureau. The Emergency Management Section conducts emergency mitigation, preparedness, response and recovery. The Intelligence Services Section collects, extracts, summarizes, analyzes and disseminates criminal intelligence data critical to the Division's crime fighting efforts. The Division Staff Section directs, controls and coordinates government security, training, internal complaints, recruiting, bias and sexual harassment investigations. The Special and Technical Services Section is responsible for providing the law enforcement community with highly specialized and technical scientific investigative services. The Records and Identification Section collects and stores essential data necessary to fulfill the mandate of each law enforcement agency within New Jersey. The Administration Section operates the Division's management and support functions.

The Division is State's premier law enforcement agency and is widely recognized as one of the top law enforcement agencies in the United States. New Jersey State Police Superintendent Carl Williams described his view of the Troopers' duty and

responsibilities as well as his pride in the Division in his newsletter to State Police family members in February 1998 as follows:

The Citizens of New Jersey and other law enforcement agencies are our clients, and we must keep pace with the times and technology to provide them with the best possible services. There are high expectations of NJSP because Troopers always find a way to get the job done and get it done right, no matter what the obstacles. We are viewed as Troopers 24 hours a day, both at work and while off duty. People in your community know you are a Trooper and have high expectations of your conduct; don't disappoint them. Every good thing that we do, both as Troopers and as citizens, demonstrates our strong commitment to the public. Division members have always been active in their communities, volunteering many hours to a variety of worthwhile programs and activities. I appreciate your efforts and encourage you to stay involved. . . .

New Jersey's State Police performed 649,462 general investigations in FY 1997 and the revised estimate for FY 1998 projected 655,946 general investigations, and 669,065 in FY 1999. The State Police conducted 21,070 criminal investigations in FY 1997. The revised estimate of criminal investigations for FY 1998 was 27,500 and the State projected that the State Police would conduct 28,000 criminal investigations in FY 1999.

The budget for the Division of State Police is included within the Department of Law and Public Safety. According to the FY 1999 budget, total funds available for law enforcement in FY 1997 were \$200,152,000 and of that sum, \$192,212,000 was expended. The total FY 1998 appropriation for law enforcement was \$182,546,000 and

the recommended appropriation for FY 1999 is 189,270,000.³ The FY 1999 budget reflects that \$146,980,000 was expended on salaries and wages in FY 1997, plus \$15,795,000 for "cash in lieu of maintenance." In FY 1998, the adjusted appropriation totals \$155,262,000 (\$139,247,000 for salaries and wages plus \$16,015,000 for "cash in lieu of maintenance"). A total of \$157,062,000 is budgeted for FY 1999, including 139,913,000 for salaries and wages and \$17,140,000 for "cash in lieu of maintenance."

Individuals selected as State Police go through a rigorous selection process that lasts for over one year before entering the Police Academy and continues through that training period. Initially, applicants must have a bachelor's degree or two years of college and two years of full-time law enforcement or military experience. During a recent selection process for the 118th class of State Police, 4300 individuals took the initial written test and 110 graduated from the Police Academy as State Troopers. Captain Joseph Brennan testified about the intensive selection process, which includes a written application form, personal interviews, background checks, and interviews. Once Troopers complete the Police Academy, they are assigned a "training officer" and rotate through different offices in the Division. State Police Officers may be let go without cause at any time until they reach their fifth year of service.

³ These figures do not include funding for special law enforcement activities, including election law enforcement, review and enforcement of ethical standards and regulation of alcoholic beverages and racing activities.

State Police are required to maintain high standards throughout their career. In addition to the rigorous requirements inherent in any state law enforcement agency, the State Police are required to pass an annual physical exam, including a physical fitness test which includes 32 or 34 pushups and a one and one half mile run in 13 minutes.

State Police are reasonably well compensated for their efforts and their excellence. The top step salary for a Trooper I is \$57,122.83. They do not receive longevity payments, a common fringe benefit in law enforcement. However, they receive \$8,190 annually in maintenance costs. Their health insurance benefits are broader than those provided other State employees and they receive retirement benefits which are more generous than other State employees.

This proceeding takes place during a period of economic well being, in large part due to budget reforms instituted by Governor Whitman and to sacrifices by other State employees in FY1995 and FY1996. The Governor summarized the state of New Jersey's economy in her February 10, 1998 budget message as follows:

Fortunately for all our citizens we've steered the ship of State in a new direction and once again we are on familiar shores, New Jersey is on sound financial footing. For example, we virtually wiped out the use of one shot revenues to balance the budget. We brought one shots down from more than a billion dollars five years ago to next to nothing today. And we balance the budget without relying on enormous structural deficit; difference between spending and revenues in any one year. Five years ago the structural deficit stood at 1.5 billion dollars, we have cut it by 75%. And because of that success I can make this pledge today, before my term is over, we will have fully eliminated the structural deficit.

Over the past four years we've cut taxes 17 times, these cuts range from our historic 30% tax cut, income tax cut to eliminating the yellow page

sales tax. Altogether we will have saved taxpayers more than 6 billion dollars, that is a record for which we can be proud. And let's not forget, we started cutting taxes when it wasn't easy, when it required tough decisions and really fiscal discipline. So now we can build on our already strong record, we can cut taxes for the eighteenth time.

Today, the budget surplus tops Five Hundred Fifty million dollars and because our economy is so strong, we should add to that surplus, we should bring it up to Six Hundred Fifty million dollars which will give us the largest budget surplus in New Jersey history.

The State has completed negotiations for much of this contract period with its State law enforcement bargaining units, as well as with each of its non-police bargaining units. These negotiations required each employee group to make sacrifices to allow the State to return to the economic health it now enjoys. To that end, the State's Office of Employee Relations sought "givebacks" in terms and conditions of employment and sought to defer salary increases to the last two years of four-year agreements. The non-law enforcement agreements, which run from July 1, 1995 through June 30, 1999, include wage freezes in the first two years (July 1, 1995 through June 30, 1997), with a \$250 bonus in the second year that was not included in the base salary. Base wage increases of 3% and 3.25% were included in the third and fourth years respectively, as were "givebacks" tailored to the economics and operations of the specific bargaining units. Givebacks include included contributions to the traditional indemnity health insurance plan as well as other changes specific to each bargaining unit.

The State law enforcement bargaining units also received no increases beyond increments in the first two years (July 1, 1995 through June 30 1997), with a \$250 one-time bonus payment in the second year. Law enforcement bargaining units were

awarded 3.5% in the third year (July 1, 1997 – June 30, 1998) and 3.5% in the last year (July 1, 1998 - June 30, 1999).

As a result of these sacrifices, and a decrease in the number of non-law enforcement State employees, as well as other cost saving programs instituted by Governor Whitman, the State now enjoys fiscal well-being. As Governor Whitman stated in her February 10, 1998 budget message, the State now enjoys a \$550 million surplus, which is projected to rise to \$650 million in FY 1999.

POSITIONS OF THE PARTIES

THE STFA

Addressing first the interests and welfare of the public, the STFA stresses the strengths of the New Jersey Division of State Police which it considers “unparalleled in its professionalism, expertise in all areas of law enforcement and productivity.” The STFA cites the statement of New Jersey Attorney General Peter Verniero before the State Senate Appropriations Committee that the State Police is the State’s “premiere law enforcement agency.” The STFA points to the testimony of Division personnel who testified in this proceeding, beginning with State Police Superintendent Carl Williams. Superintendent Williams agreed with the Attorney General’s statement and added, “we are number one.” He also testified that no other State Police department holds its Troopers to standards as high as those required by New Jersey’s Troopers, both on and off duty. Superintendent Williams testified that New Jersey has “the most diversified

State Police agency" in the nation and that its professionalism is unparalleled by any New Jersey agency.

Recently retired Lieutenant Colonel Lanny Robertson, who served as Assistant Superintendent before his retirement, testified that the New Jersey Division of State Police is "one of the finest . . . state police organizations in the country, if not the finest." Lt. Colonel Robertson also testified that compared with other police departments within the State of New Jersey, the Division of State Police is "number one."

As further evidence of the interests and welfare of the public, the STFA points out that the Division of State Police is the only law enforcement agency in the State with complete universal authority to enforce state, county, and local laws, including the Marine Police laws. The Division of State Police is also available, at the call of the Governor, to handle unique circumstances, such as riots or major storms. Lt. Colonel Robertson testified that the Division of State Police is the primary law enforcement agency for 74 municipalities in the State, and in another 26 municipalities, the State Police share primary law enforcement responsibilities with part-time local police departments.

Captain Joseph Brennan testified about the extensive selection and training processes each applicant must complete before becoming a New Jersey State Police Officer. First, Captain Brennan testified that applicants for State Trooper positions must have a bachelor's degree or two years of college and either two years of full-time law

enforcement or military experience. All recruits are required to take a written test. 4300 individuals took the written test for the 118th class. After the written test, those individuals with the top scores receive a background check by State Police personnel. The background check includes meeting and photographing the applicants at the Police Academy in Sea Girt. Then the applicants receive a comprehensive written application form that takes two to three weeks to complete. While at the Police Academy in Sea Girt, the applicants also take the "Personnel History Questionnaire" which is sent to California for scoring, while background checks, including criminal history and financial checks, are in process.

After this process is completed, background interviews, including neighbors and former employers, are conducted. Applicants who have not been rejected or quit, are interviewed by a board composed of a lieutenant, a sergeant and a trooper. After the interview, applicants are ranked, then a second background investigation is conducted, including medical background and physical examinations and psychological screening. Applicants who pass these tests are admitted to the Sea Girt State Police Academy. The hiring process from the first examination to the first day at the Academy takes over one year. In recent recruit classes, over 4000 individuals have sat for the initial exam and 110 people graduated from the Academy as State Troopers in the 116th class and 102 graduated from the 117th class.

Captain Brennan testified that once recruits are selected for the Sea Girt State Police Academy, the selection process continues as instructors evaluate recruits during

the training process. According to Captain Brennan, the attrition rate for State Police recruits at the academy is about 35%. Due to the college degree requirement, the training program focuses on "tactical and applied law enforcement techniques" rather than basic college courses. Graduates of the Academy are entitled to 15 college credits from Seton Hall University. Once a recruit graduates from the Academy, he is assigned to a "training officer" and a station and begins a rotation through different types of work in the division.

Captain Brennan also testified that unlike municipal and county police, State Troopers may be dismissed after their second or fourth years without cause. Only after the fifth year of service does a State Trooper receive tenure. Captain Brennan continued, noting that for State Troopers' training is an ongoing process and there is a schedule of degrees required for promotions to certain positions.

Troopers are also subject to annual physical exams. The physical exam, or the "Fit For Duty Exam" required for all State Troopers includes 32 or 34 push ups and running one and one half miles in 13 minutes. Failure to pass the physical exam will result in separation. Captain Brennan testified that the Division's physical fitness requirements are "cutting edge" and no police department in the State or in the nation holds its officers to such high standards. Retired Lt. Colonel Lanny Robertson testified that the Division also has at least 100 specialist assignments, including Uniform Road Patrol.

The STFA maintains that its final offer will keep starting rates competitive and will allow the Division to continue to attract the best candidates. The STFA contrasts its final offer with the State's final offer which would require a "significant reduction" in starting rates and benefits. The STFA points to the testimony of Captain Brennan that the \$43,000 starting salary for State Troopers is above average compared with the New York State Police and the Pennsylvania State Police, but lower than the starting salary for some municipal agencies.

Captain Brennan testified that State Troopers have mandatory retirement at age 55 and that no other law enforcement agency in the State has such a requirement.

According to the STFA, the public is the ultimate beneficiary of the services provided the State Troopers. The STFA maintains that the public is best served by compensating Troopers appropriately and new hires should not be treated differently, as the State proposes. According to the STFA, the State's proposal to lower salary and benefits for newly hired Troopers is "antithetical to the very purposes and tradition of the Division." The STFA reasons that all Troopers must adhere to the same physical fitness, education and training standards, as well as complete the rigorous recruitment process. Therefore, the State's proposal would hamper the esprit de corp within the Division by creating a second class Trooper based upon their date of hire. The STFA contends that the State has not submitted evidence to support its assertion that a second tier wage is needed.

Turning to comparisons of wages, hours and conditions of employment, the STFA argues that the State Trooper compensation program is not commensurate with the status and standing of State Troopers within the law enforcement community. At present, the maximum pay rate is \$57,122.83, or salary range 19, step 9. This rate, according to the STFA, is not at the top, but is at the mid-range of pay rates among law enforcement personnel. Addressing the issue of maintenance pay, the STFA asserts that the value of maintenance pay is less than the value of other non-wage benefits received by most other law enforcement personnel in New Jersey. The STFA points out that maintenance pay is the only cash benefit paid to State Troopers, while county and municipal law enforcement officers typically receive other benefits such as longevity. The STFA argues that comparisons should include the total cost of compensation, including non-base wages paid to other law enforcement officers throughout the State.

The STFA contends that it takes Troopers more than twice as long as county and municipal law enforcement personnel to reach maximum pay. In support of this contention, the STFA submits a chart listing the average number of years it takes local police officers to reach top pay. The number of steps range from a low of 3 in Margate to a high of 9 in Vineland, but average 5.26 steps. The STFA also points out that movement up steps in local law enforcement is automatic. Historically, however, the State has administered movement among the three Trooper pay ranges (each of which

has 9 steps) as promotional.⁴ However, the STFA acknowledges that despite 27 pay rates, on average it takes Troopers 9 1/2 years to reach maximum salary.

The STFA also points out that Troopers are not tenured until the 5th year of service in contrast to most municipal police officers who achieve tenure at the end of one year of service after the Police Academy. The effect of this is that Troopers do not achieve top pay until they are through 40 percent of a 25-year career.

The STFA notes that Troopers do not receive longevity payments, which are typically a percentage of base pay determined by years of service. According to the STFA, longevity payments offset the value of Trooper maintenance money without consideration of other benefits paid to municipal officers. In support of this contention, the STFA prepared a chart illustrating the value of longevity benefits. Using annual maximum longevity benefits at 25 years of service, the STFA provided information on longevity payments in 37 communities throughout New Jersey. Longevity benefits at this level ranged from a flat \$1,000 in Hillsborough to 21% or \$11,913 in Union City, with the STFA's calculation of the average annual longevity payment as \$5,508.

⁴ According to the STFA, the State's position is that promotional criteria are not mandatorily negotiable and there is no right to move between pay ranges. The negotiability of promotional criteria is not at issue here.

Next, the STFA turns to holidays and provides a chart illustrating that the annual holiday benefit for New Jersey State Troopers is below average when compared to the holiday benefits provided by New Jersey municipalities. Turning again to a chart to illustrate the number of holidays provided to police officers in municipalities throughout the State, the STFA shows that on average, municipal police officers receive 13.61 holidays annually. Holiday allowances range from a low of twelve in several communities, including Denville, Pequannock, Bordentown and Margate to a high of 16 in Millville. An additional difference between the benefit provided to State Troopers and local police officers is that local officers typically receive paid holidays rather than days off. State Troopers are compensated with time off. While agreeing that time off has a value, the STFA points out that cash from paid holidays provides greater flexibility to the police officer. The STFA calculates that if State Troopers were given cash in lieu of holidays, at top pay, each trooper would receive \$2,856.

Adding the dollar value of paid holidays to the average dollar value of longevity benefits, the STFA calculates that the average municipal law enforcement officer receives \$8,364 (5,508 longevity plus \$2,856 for holidays) in paid benefits. The STFA points out that the dollar value of these two benefits exceeds the dollar value of maintenance paid in the last contract.

In addition to the differences in longevity and holiday benefits, the STFA asserts that State Troopers are not provided with a "degree educational incentive plan." According to the STFA, degree oriented incentives are common at the local level. To

that end, STFA seeks a guarantee of tuition payment and a value to the degree once it is achieved. The STFA distinguishes the Trooper's education benefits from those provided by municipalities because the Troopers educational incentive is contingent upon annual funding. Since the State can choose whether to fund tuition reimbursement, it can determine whether to fund all or some of Trooper tuition reimbursement. Under the current contract language, the Trooper does not find out whether he will be reimbursed until after the course is taken and a request for reimbursement is made. The STFA proposes to address this problem by including an annual payment for educational courses completed. According to the STFA, the benefit it seeks is less than that commonly provided at the municipal level. In support of its proposal, the STFA created a chart of the education benefits provided to municipal law enforcement officers. The chart includes municipalities in Monmouth, Union, Morris, Somerset, Hunterdon, Middlesex, Cumberland, Cape May, Atlantic, Bergen, Sussex, Hudson, Ocean, Essex, and Passaic counties. Education benefits included unspecified tuition assistance, guaranteed tuition reimbursement, annual flat dollar amount payments based upon the highest degree earned (e.g. from \$250 to \$1200 for a bachelors degree) and a dollar amount (from \$5 per credit per year to \$25 per credit). The STFA contrasts the various methods of compensating law enforcement officials for improving or enhancing their education with the State Trooper program, which does not guarantee tuition assistance and does not pay an annual benefit.

The STFA also points out that unlike most municipal law enforcement employees, Troopers do not have a contractually stated sick leave program. According

to the STFA, most municipal employees receive 15 sick days per year and are permitted to carry unused sick leave from year to year for a cash payment at retirement. Troopers are permitted to use sick leave as necessary, but do not accrue sick leave. Since they do not accrue sick leave, they do not have the opportunity to receive a cash payment for their unused sick leave at retirement. The STFA contrasts this with the variety of payment plans provided to police by New Jersey municipalities. As illustrated by the STFA's chart, most municipalities provide between 10 and 15 sick days per year and permit police officers to accrue at least 60 days and at retirement pay the officers for those accrued sick days at either their full rate or some portion of their rate. Several municipalities limit the maximum number of days or the amount of money that can be received at retirement (e.g. \$15,000).

The STFA contrasts its final offer with the State's final offer to eliminate maintenance, reduce the shift differential and eliminate the current tuition reimbursement program. The STFA argues that the State has not provided explanation, evidence or empirical data in support of these proposals. The STFA also criticizes the State's proposed salary scale revision, which would create a two-tier wage plan, with a second tier for new hires. Under the State's proposal, the new hires would never reach the salary levels of current State Troopers. The STFA asserts that paying individuals in the same job title under two different compensation plans is "antithetical to the very camaraderie and esprit de corps" that is a source of pride within the Division. The STFA notes that Superintendent Williams and retired Lt. Colonel Robertson testified

about the cohesiveness of the Trooper workforce and Captain Brennan testified that a higher entry rate is necessary to attract quality applicants to the Division.

The STFA asserts that the burden of demonstrating the necessity of second tier wages rests with the State and the State did not submit evidence justifying a reduction or revision in the structure of State Trooper wage scales. Additionally, the STFA points out that the State Trooper compensation program is complex and inter-related and that the State's proposal would have an impact upon the step program, the promotional program, and the increment program.

When considering the compensation program for a State Trooper compared with the compensation program for municipal and county law enforcement personnel in the State, the STFA contends that Troopers' base pay is, in the best light, competitive. When State Trooper pay is examined in the context of all benefits, including maintenance and benefits provided to municipal and county police, including longevity, educational incentive, accumulated sick leave value at retirement and other benefits, the relative position of State Troopers falls behind. Additionally, the STFA notes that wages and benefits throughout the State continue to improve.

The STFA argues that the average rate of increase in base pay in law enforcement agencies throughout New Jersey supports its final offer. The STFA focuses on increases achieved through direct negotiations rather than those imposed by a third party neutral. Using a chart to examine average annual salary increases

throughout the State, the STFA finds that the average increase in 1996 was 4.403%. The average increase in 1997 was 4.242%, and the average increase in 1998 is 4.205% and the average increase among settlements for 1999 is 4.223%. STFA analyzed the 38 settlements throughout the State and based its average upon those settlements. Average increases in 1996 were based upon 18 agreements. Average increases in 1997 were based upon 25 agreements. Average increases in 1998 were based upon 22 agreements and average increases for 1999 are based upon 16 agreements.

The STFA also uses to its chart of settlements throughout the State to stress that none of the settlements included zero increases in any given year. Returning to the issue of the State's burden, the STFA points out that the State did not present evidence regarding voluntary settlements within law enforcement in New Jersey at the municipal or county level. Additionally, the STFA notes that the average annual increases are to base wages only and do not take into account the value of the increases on longevity, educational incentive, retiree benefits for unused sick leave, and other benefits dependent upon the wage rate. The STFA maintains that, if the impact of wage increases upon these benefits was included, the average rate of increase would be higher. The STFA points out that its final offer is within one percent of the average annual increase in voluntary settlements over the four-year period from 1996 through 1999.

Turning to the average annual increases included in interest arbitration awards throughout New Jersey, the STFA asserts that these too support its final offer. Looking at the STFA's chart of 21 interest arbitration awards in Bergen, Passaic, Monmouth, Essex, Mercer, Somerset, Gloucester, Salem, Burlington, Union, Atlantic and Hudson Counties, the average annual increase in 1996 was 3.803%, in 1997, 3.857% and 3.884% in 1998 and 3.925% in 1999. Again, the STFA points out that the total economic change resulting from these awards is higher than simply the rate of salary increase.

Examining the "Public Employment Relations Commission, Division of Conciliation and Arbitration 5 Year Salary Increase Analysis Interest Arbitration 1/1/93-12/21/97" included in the "Biennial Report of the Public Employment Relations Commission of the Police and Fire Public Interest Arbitration Reform Act," the STFA points out that the average increase for all interest arbitration awards for 1996 was 4.24%. That number is 4/10 of one percent higher than the amount of increase reflected in the chart STFA created based upon the interest arbitration awards it submitted. The STFA adds that for 1997 the average increase for all interest arbitration awards Statewide was 3.63%, or 2/10 of one percent lower than the average of the awards it placed in the record in this case. According to the STFA, the PERC data, viewed cumulatively is "nearly identical" to the data it submitted. The STFA's review of voluntary settlements for 1996 shows that the state-wide statistics compiled by PERC are very close to the voluntary settlements included by STFA.

The STFA asserts that the State's comparison of the New Jersey State Police with those in other states is flawed because New Jersey's State Police have different functions from those in other states. For example, the STFA points to the presence of casinos in New Jersey, but not in Pennsylvania, Vermont or Delaware. Additionally, the STFA points out that the State compares State Troopers to Corporals in other states, and that there is no Corporal position covered by its agreement with the State. The STFA compares the Pennsylvania agreement that provides Corporals with an 8% rank differential over Troopers and cites the testimony of Thomas O'Reilly, Administrator of the Department of Law and Public Safety, that the "corporal" title is not used for New Jersey State Troopers. O'Reilly testified further that he equated a Corporal in Pennsylvania with a T-19, or Senior Trooper. However, the STFA points out that a Corporal is a supervisory position while a Senior Trooper is not. The STFA seeks to discredit the testimony of Jenny Healy, an assistant to Mr. O'Reilly about the methods used to create a chart comparing compensation in other States with that received in New Jersey. For example, in one chart, the compensation for New Jersey Troopers includes maintenance, but compensation for Pennsylvania State Police does not include a longevity benefit which goes up to 28%. The STFA also cites O'Reilly's testimony that movement from Trooper to Trooper II is a promotion.

The STFA's dismissal of comparison to other states is also based upon a difference in the number of hours worked. New Jersey State Troopers work 2080 hours per year, while State witness Jenny Healy testified that police in several states included in the comparison work a 4/2 schedule, which totals to 1946 hours annually and equals

6.4% less work time than in New Jersey. Ms. Healy also acknowledged that her comparison includes paid out compensation only and does not include benefits such as additional vacation days. The STFA points out that some states, such as Massachusetts provides physical fitness release time like that the STFA proposes in this case. The STFA also dismisses the State's assertion that, based upon its research, New Jersey State Police are the highest paid in the nation. The STFA points out that the State's comparison uses only a random sampling of seven out of the remaining 49 states.

The STFA asserts that the comparisons suggested by the State support its final offer because the evidence proffered by the State is devoid of empirical evidence that any other state police agency in the country received a zero percent increase. In support of this assertion, the STFA cites Mr. O'Reilly's testimony that all of the state police agencies used in comparison received salary increases. Specifically, the STFA points to Ms. Healy's testimony regarding the increases received in Michigan, Pennsylvania, Massachusetts and New York. Ms. Healy testified that the Pennsylvania State Troopers received 4.5% increases in 1996 and Michigan State Police received a split increase of 1% on April 1 and 3% on October 1, 1996 for a total of a 4% increase. Ms. Healy testified that Massachusetts State Police received a 3.5% increase effective January 1, 1997 and an additional 3.5% effective July 6, 1997. Massachusetts State Police received 3.5% in early January of both 1998 and 1999. Addressing Arbitrator Martin Scheinman's interest arbitration award in New York, Ms. Healy read the pertinent language from Arbitrator Scheinman's award which provided that for 1997-1998

Troopers received 2.5% across the board increase effective at the pay period nearest July 1, 1997, and a 3% across the board increase effective as of the pay period nearest January 1, 1998. Arbitrator Scheinman calculated that this increase was equivalent to 4.125% for the contract year 1997 through 1998.⁵

Based upon these agreements, the STFA asserts that comparison with other state police agencies supports the STFA's final offer. The average increases among the state police agreements proffered by the State is approximately 4% per year. Because other State agencies provide better benefits than those provided to the New Jersey State Troopers, the STFA maintains that its final offer of 4.5% per year is supported by the employer's exhibits.

Turning to the issue that the STFA characterizes as the "universe of comparability," the STFA argues that the valid comparisons are with other law enforcement agencies. Specifically, the STFA points to comparison with county and municipal law enforcement settlements within New Jersey. The STFA asserts that the New Jersey Legislature recognized the difference between public safety titles and other positions when it created a separate bargaining law for public safety employees. The

⁵ The complete increases awarded by Arbitrator Scheinman are "across the board increases, January 1, 1997 – 2%, July 1, 1997 – 2 ½%, January 1, 1998- 3%, July 1, 1998-3%, January 1, 1999 3.2%.

STFA cites Arbitrator William Weinberg's discussion of the difficulties of comparison of police to non-police employees in an arbitration award involving the Ridgewood police.

The STFA maintains that historically, New Jersey State Troopers have been treated differently from other State employees. For example, the STFA points out that the New Jersey State Police agreement is the only agreement covering State employees with a different expiration date from all other State employees and the State has kept State Police negotiations separate from negotiations with other bargaining units. The STFA cites the OER Director David Collins' testimony that State Troopers have been treated better than other State employees and State Troopers have their own unique pension system separate from the pension system covering other State employees. Specifically, Collins testified that the Trooper contract had a different expiration date from all other State contracts. Additionally, the STFA points to the unique physical fitness and educational requirements for State Troopers.

The STFA notes that others in State government receive paid holidays and cumulative sick days with a cash pay out at retirement and troopers do not receive these benefits. Citing the agreements between the New Jersey Turnpike and IFPTE, the STFA points to paid longevity benefits included in that agreement. Specifically, the STFA cites the longevity provisions of these agreements which provide 4% longevity for employees with 10 years of service, 6% longevity for employees with 15 years of service and 7% longevity for employees with 30 years of service. In contrast, the STFA reiterates that State Police do not receive longevity benefits. Additional benefits not

provided to State Police, but available to other State employees include a clothing allowance. The STFA also raises the issue of State's "contingent tuition assistance program, based upon funds being made available in the sole discretion of the employer" which the STFA seeks to change. In contrast, the STFA uses a chart to illustrate the State units that provide tuition plans for other State employees. That chart lists 18 agreements, including the State Law Enforcement Conference Law Enforcement Unit, the New Jersey Law Enforcement Unit, Primary Level Supervisors and the New Jersey Superior Officers Law Enforcement Unit, Captains Unit.

Turning to the issue of whether there is a pattern settlement within State employment, the STFA suggests that the pattern of settlements and awards among law enforcement agencies supports its final offer. The STFA rejects the State's pattern argument based upon settlements reached three or more years ago in bargaining units composed of non-law enforcement personnel. Addressing first the issue of when the State contracts were negotiated, the STFA asserts that the fiscal situation in New Jersey is very different than it was three years ago. According to the STFA, the fiscal situation in New Jersey is much improved from three years ago, and continues to improve. Timing and the passage of time are critical in this case according to the STFA.

According to the STFA, this case must be viewed in light of current economics, not those present three years ago. The STFA cites several examples of changed economic conditions, including Governor Whitman's February 10, 1998 statement of New Jersey's Fiscal Condition, a May, 1998 statement by New Jersey State Treasurer

James A. DiEleuterio. The STFA also points to the New Jersey Department of Commerce and Economic Development statement, which describes 1998 as having the highest projected personal income growth rate in the past three years.

The STFA contrasts its members to members of other State bargaining units where wage rates are significantly lower and turnover is likely to be higher. In contrast, State police have long tenure and most are at the maximum rate of pay. The STFA cites the OER Director Collins' testimony that 75 or 80% of the State employees are not at maximum pay (T67 5/18). The STFA contrasts the 4% step increases these employees received with the actual wage freeze that would occur from a zero percent increase because most State Troopers are at maximum pay. The STFA infers higher turnover in other bargaining units than in the Troopers unit from the fact that most employees in other State bargaining units are not at maximum pay.

The STFA faults the State's parallels to other State law enforcement personnel because there are many distinctions between employees such as corrections officers and State Troopers. For example, the corrections officers' clothing allowance is folded into the hourly rate for overtime purposes, increasing the hourly rate by \$1.16, as compared to the Troopers' hourly rate which does not include their clothing allowance.⁶ On top of the clothing allowance, Corrections Officers receive a 20-minute daily

⁶ The STFA also notes that Corrections Officers' clothing allowance is \$1610 annually compared to \$800 for Troopers.

overtime guarantee in their agreement. The STFA points out that no such guarantee is included in the Trooper agreement.

The STFA asserts that recent wage rate increases for New Jersey law enforcement personnel from the immediate past presents a valid pattern for consideration. The STFA points to the recent settlements between the Port Authority of New York and New Jersey and the Port Authority Benevolent Association and the award of Arbitrator John Sands in the case between Rutgers, the State University of New Jersey and FOP Local 62. The Port Authority agreement covers 1000 police officers employed by the Port Authority composed of individuals designated and appointed by the Governors of each state in equal numbers. The contract was subject to the review and approval of the governors of both states. PBA President Gus Danese testified that the head of the Port Authority is a retired New Jersey State Trooper. The Port Authority agreement provides for a seven-year term, from January 21, 1996 through January 20, 2003. President Danese testified that the Port Authority Police settlement included base wage increases of 4% effective January 21, 1996, 4% effective March 15, 1997, 4% effective May 1, 1998, 4% effective July 15, 1998, 4% effective September 1, 2000 and 5% effective November 15, 2001. The STFA points out that President Danese also testified concerning improvements to longevity, and other miscellaneous increases, including the premium paid for working in the central police pool, safety allowance, mileage reimbursement, death benefits, premium for plain clothes assignment, and long term disability. President Danese pointed out that Port Authority officers hired after July 1, 1999 will be covered under a Port Authority Point of

Service Health Insurance Coverage at no cost to the officer and a forfeiture requirement was added to the vacation policy.

In support of its comparison, the STFA details the differences in between Port Authority Police and New Jersey State Troopers. The STFA comparison shows that Port Authority police have six steps to maximum pay compared to nine steps in three promotional ranges for Troopers and detectives receive a 25% differential which is not included in the Trooper agreement. Port Authority Police also receive 15 minutes of overtime pay for roll call and Troopers do not receive such a benefit. Under the Port Authority agreement, Police work 1946 hours annually, compared with 2080 for Troopers. Port Authority police receive a 10% night differential for any tour of duty starting after 2:00 p.m. and Troopers receive a 7% differential for work from 9:00 p.m. to 7:00 a.m. Port Authority Police have a longevity program and the Troopers do not and Port Authority Police receive 5% for plainclothes assignments and the Troopers have no such provision. According to the STFA, the Port Authority Police have a pay and benefits package that is superior to that provided to State Troopers.

Based upon the agreement described above, the STFA maintains that the Port Authority Police, employees of a parallel law enforcement agency with bi-state powers, are better compensated and have better terms and conditions of employment than the Troopers. The STFA places great emphasis on the voluntary nature of the agreement between the Port Authority and the PBA because the agreement was subject to a ratification process that included the review and approval of Governor Whitman and

Governor Pataki. Specifically, the STFA points to the testimony of PBA President Danese regarding the ratification procedure. Danese testified that the Port Authority Board of Commissioners, composed of 12 commissioners, half of whom were appointed by the Governor of New Jersey and half of whom were appointed by the Governor of New York, approved the agreement on January 29, 1998. Then, Governor Whitman and Governor Pataki had 30 days in which to veto the minutes, thereby stopping the ratification of the agreement. Neither Governor exercised that authority. Then, on February 26, 1998, the Board of Commissioners unanimously approved the minutes and the ratification was complete. The agreement was then reduced to written form and executed on May 7, 1998.

The STFA contends that Governor Whitman's administration acquiesced to the Port Authority settlement, which was signed on May 7, 1998, while this proceeding was underway. The STFA suggests that the economic terms and conditions such as the consumer price index, the general financial condition and private and public sector comparisons in that settlement were virtually identical to the conditions under which that award is considered.

Turning to another current contract, the interest arbitration award of Arbitrator John Sands addressing the police at Rutgers, the State University of New Jersey, the STFA points out significant parallels between the employer's final offer before Arbitrator Sands and the State's final offer in this case. Specifically, the STFA points out that six weeks before the close of the hearing in this case Arbitrator Sands rejected the concept

of wage freezes and several benefit reductions included in the employer's final offer. Instead, Arbitrator Sands awarded four annual increases of 3.5% each.⁷

STFA asserts that if patterns are to be a meaningful guide in interest arbitration, they must be "close in time and function". The STFA submits that the settlement received by non-law enforcement State employees three or three and one half years ago took place in vastly different times from today, in 1998 when New Jersey has budgetary surpluses and fiscal flexibility.

Turning to the stipulations of the parties, both the State and the STFA agree upon a four-year successor agreement. The STFA points out that historically all State labor agreements begin and end on the same dates except for the Troopers' agreement. The STFA asserts that it has been the intent of the parties in prior agreements to keep Trooper negotiations separate from the remainder of State negotiations. The STFA asserts further that this agreement is consistent with its position that Troopers should not be treated the same as other State employees.

The STFA argues that the lawful authority of the employer does not impede the adoption of its final offer in this case. The STFA asserts that the terms of this criteria are very specific, addressing the New Jersey "Cap Law" which is found under Title 40A,

⁷ PERC upheld Arbitrator Sands' award on July 31, 1998. In its brief, the State notes that Rutgers has not yet determined whether it will appeal.

statutes focusing on Municipal and County Governmental authority. Unlike limits imposed on municipal and county governments, there is no statutory cap on the State's budget process, according to the STFA. Pointing to the New Jersey State League of Municipalities' support for the Interest Arbitration Reform Act, the STFA suggests that whatever impact this criterion has on interest arbitrations in other cases, it has "no impact with respect to the 'Cap Law' assertion at the State level." The STFA notes that the State has not argued that the Cap Law applies at the State level. The STFA conjectures that if a 5% limitation was relevant to this case, one would need consider the 800 million dollars a 5% limitation would have on a budget of over \$17 billion. The STFA includes its analysis of remaining issues under this criterion with its analysis of the financial impact on the governing unit, its residents and taxpayers.

As with the lawful authority of the employer, the STFA asserts that the specific language of this criterion also limits its applicability to counties or municipalities. Specifically, the STFA interprets the language, "when considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account . . ." as a statement of legislative intent that the "bulk" of the criterion is geared towards counties or municipalities. From this, the STFA extrapolates that only the first sentence of the criterion applies to this case. In other words, the STFA's interpretation of the legislative intent is that only "the financial impact on the State and the residents and taxpayers of New Jersey" applies.

According to the STFA, the financial impact of its final offer on the State, its residents and taxpayers is "so small as to be almost imperceptible." To illustrate its

point the STFA uses the State's costing of its proposal. That is, the STFA accepts the State's assumption that there are 1855 Troopers at an average annual cost per Trooper of \$59,987, including salary, maintenance and uniform allowance.⁸ Using the State's numbers, the STFA calculates that the total bargaining unit salary costs are \$111,275,880.00 and one percent of this total is \$1,112,758.00. The STFA cites the testimony of Director of the Officer of Management and Budget and Comptroller of the State of New Jersey, Elizabeth Pugh that the total bargaining unit wages, including maintenance and uniform allowance amounts to 6/10ths of one percent of the State's budget. The STFA also points to the testimony of Thomas J. O'Reilly, Administrator of the Department of Law and Public Safety and of Jenny Healy in Mr. O'Reilly's office. They verified the State's calculations and agreed that 4.5% of total annual Trooper salaries is approximately five million dollars. The STFA calculates that the cost of its annual 4.5% proposed increase is \$5,700,411.00. The STFA notes that this figure includes \$169,500.00, which is the cost of the clothing allowance. If that is removed from the total compensations of \$111,275,880.00, then the STFA calculates, the resultant annual cost of Trooper salaries and maintenance, less the clothing allowance is \$109,606,300.00. Accordingly, the STFA calculates one percent of this amount to be \$1,096,063.00 and the annual cost of its 4.5% final offer to be \$4,932,285.00.

⁸ The STFA notes that the number of Troopers fluctuates and new Troopers earn less than the Troopers they replace. The STFA also criticizes the State's inclusion of the \$900 uniform allowance in its salary cost, since the uniform allowance is reimbursement for costs incurred. The uniform allowance for non-uniform personnel is \$800.

Based upon these calculations, and the testimony of Ms. Pugh, the STFA calculates that the impact of a one percent increase in Trooper salaries and maintenance is .00006 of the State's budget. The STFA cites to the testimony of Ms. Pugh and Mr. O'Reilly that the 4.5% proposal of the STFA has a value of a little over \$5 million annually. Ms. Pugh's May 28, 1998 testimony on cross-examination regarding the potential impact of the STFA's final offer is as follows:

Q. Would you please, if you can, establish a ratio of that amount of money of total Trooper compensation as against the State budget of 17.9 [expressed in billions].

A. .6%.

Q. 6/10ths of one percent?

A. If I did it right.

Q. And that is the total bargaining unit wages, maintenance and uniform allowance for all persons in the bargaining unit using employer exhibit E-53, January 1998, correct?

A. Yes.

Mr. O'Reilly confirmed the value of the STFA final offer as follows:

Q. Mr. O'Reilly, we've just established that 4.5% figure of the 1,855 Troopers at \$59,987 is just over 5 million dollars, right?

A. Yes.

Based upon this testimony from State witnesses, the STFA asserts that the State can not arrive at the cost numbers included in its submission. Turning to other funding sources, the STFA points out that the testimony cited above is premised upon the entire cost of a Trooper salary increase coming from the State's budget.

The STFA points out that State Police operations, and reimbursement for them, send substantial revenue to the State. The STFA identified direct reimbursement for services from various sources, grant money, forfeiture and seizure funds and assets and general revenue collections from summons resulting in fines. According to the STFA, the cumulative impact of these funding sources reduces the impact of State Police operations to significantly below 6/10 of one percent. The STFA asserts that the import of this argument is that "the total cost of operations of the State Police are not solely funded by taxpayers' money."

The STFA points out that according to the Fy-1998 Spending Plan, Department of Law and Public Safety, direct reimbursements totaled over 67 million dollars. The STFA points out that in her testimony, Ms. Pugh distinguished between the revenues brought in by the State Police and placed in the general fund and the funds appropriated to the State Police. However, the STFA asserts that the accounting methods used by the State fail to "recognize the obvious" which is that the State receives revenues as a direct result of State Police operations. According to the STFA, these revenues represent a "clear and unequivocal offset to state funds being utilized to pay for State Police expense." The STFA rejects the State's view that the funds come in to the State coffers, not the State Police.

The next funding source identified by the STFA is the reimbursement of the State by outside agencies for the services of State Police personnel. For example, the New Jersey Turnpike Authority, the New Jersey Expressway Authority, the New Jersey

Parkway Authority and the New Jersey Sports and Exposition Authority each use the services of the State Police and reimburse the Division for the cost of the services. In the example used by the STFA, in January of 1998, there were 218 Troopers assigned to the New Jersey Turnpike authority and 198 Troopers assigned to the New Jersey Parkway authority.

The STFA cited the agreement between the State of New Jersey and the Garden State Parkway, which provides that, "the parties to this Agreement intend that the Authority shall pay neither more nor less than 100% of the actual cost of policing the Garden State Parkway." Likewise, the agreement between the State of New Jersey and the New Jersey Expressway Authority includes the same provision for the Atlantic City Expressway. According to the STFA, the agreements between the State and each of the agencies using the services of the State Police include similar provisions stating "the intention of the toll road authority to pay the full cost of all troopers and trooper related expenses, salary, maintenance, fringe, even the cost of vehicles, supervision, etc." The STFA points to the testimony of Mr. O'Reilly that the state authorities always pay the State for Trooper services. The STFA calculates that total reimbursement from the toll roads is \$67,685,410.00. The STFA argues that the cost obligation of to the public employer should be reduced by the amount of money received as a result of such services.

The STFA also points to the governmental grants, totaling \$15,331,835 00 annually as an offset to the total cost of police operations. The STFA acknowledges

that these funds cannot be used directly for base pay, but asserts that they do represent significant sums that can be applied to the costs of State Police operations. Additionally, the STFA points out that some special sections receive specific funding through either statutorily dedicated money, grant money, or various federal and state programs. For example, the Emergency Management Section receives funding totaling \$7,161,162.00 from a variety of sources including \$1,657,243 in federal grants, \$2,836,393 from the Radiological Emergency Response Program and \$837,526. In sum, the Emergency Management Section receives 25.55%, or \$18,30,000 from the general state fund.

As an example of special grant funding, the STFA cites the "heavy duty diesel" operations, where, as described by Sgt. Jon Hannigan, expenditures are offset directly by money received from fines. Other examples of funding of State Police costs from outside sources include the New Jersey Medical Service Hospital Response Unit with 20 Troopers assigned and an allocation of over 1.7 million dollars, and the Division of Gaming Enforcement with 77 Troopers and total salary and maintenance of 5.4 million dollars. Specifically, the STFA points to a list of 680 Trooper positions that are funded from sources other than direct appropriation. According to the STFA, the salary and maintenance cost of those positions in FY 1997 totaled \$5,477,232,01. The 680 positions were funded as follows:

Federal Highway Haz. Mat. Trans. Act	11 Troopers
Federal D.W.I. Training	2 Troopers
NJ Turnpike Authority	218 Troopers
NJ Expressway Authority	39 Troopers
NJ Parkway Authority	198 Troopers

DOT Construction Detail	25 Troopers
NJ Medical Service Hospital Response	20 Troopers
CTS HDDE IRP CVEF	89 Troopers
DED Fund	1 Trooper
Division of Gaming Enforcement	77 Troopers

Turning to revenues generated by the State Police in tickets and fines, the STFA cites the over 300,000 tickets for motor vehicle violations issued annually. According to the STFA's calculations, revenues from annual fines exceeded 24.6 million dollars, including over \$500,000 in drunk driving fines in fiscal year 1996. According to the STFA, the State includes this revenue in its general fund without acknowledging formally that the State Police generate these funds. The STFA calls the barrier between the State Police fee generating operations and the State's cost statement a "Chinese wall".

The STFA also cites money and goods that have been seized by the State Police as a source of revenues and in kind resources. Citing the testimony of Assistant Administrative Officer Detective Sgt. Frank Rogers, the STFA points out that there is \$975,000 in interest on the asset management account. That is, the interest alone on the financial assets seized is \$975,000. Detective Sgt. Rogers testified that in 1997 alone, 11.2 million dollars was seized by the State Police. As evidence that seized and forfeited funds are used directly by the State Police, the STFA points to the minutes of the January 6, 1998 Troop Commander's meeting, which provide, "forfeiture monies have not been coming in as in the past, therefore the request for distribution of funds have been significantly cut." The STFA maintains that these expenditures would have been from taxpayer money, but for the forfeitures. The STFA also cites the Law and

Public Safety Budget Section, which reflects that forfeiture funds were “appropriated for law enforcement purposes designated by the Attorney General.” As additional evidence of the wealth of resources captured by State Police, the STFA cites the “Monthly Status Report for Confiscated US Currency and Property for December 1997”. This report, which was prepared using November 1997 calculations, reveals that over 5.1 million dollars was confiscated in the first 11 months of 1997.

The STFA points to additional examples of Trooper reimbursements that are taken from funding sources other than taxpayer monies. These examples include a summary of Trooper overtime payments, which includes \$3,282,183.00 in total reimbursement for Trooper overtime. Adding each of the examples of reimbursements, the STFA calculates that almost two thirds of State Police operating expenses are covered by State Police operations. Therefore, the STFA estimates that \$50 million, not \$160 million, is a more accurate figure to describe the costs to the taxpayers for State Police operations. The STFA estimates further that only a portion of that cost can be attributed to the bargaining unit. Therefore, the STFA calculates that the “actual cost impact of a wage increase on the State of New Jersey is approximately \$50,000 per point.” The STFA asserts that this is an “infinitesimally small number” in a budget of \$17.7 billion.

Turning to the State’s fiscal condition, the STFA, asserts that it is very strong and projections for future years are for continued fiscal strength and growth. The STFA cites Governor Whitman’s February 10, 1998 budget message as positive evidence of a

strong economy with anticipated future growth. Specifically, the STFA points to the Governor's achievements of eliminating of the "use of one shop revenues to balance the budget", cutting the structural deficit, cutting taxes 17 times, and creating a budget surplus of over \$550 million.

The STFA asserts that New Jersey's FY 1999 budget also reflects a strong economy with total revenue expected to grow at 4.21%, compared with the FY 1998 revised estimated growth rate of 3.74%. In dollar amounts, the FY 1998 revised estimated growth is \$609,000,000, and projected growth in FY 1999 is \$711,000,000. The STFA's further examination of the FY 1999 budget reveals that \$25 million in unappropriated reserves will lapse. The STFA places great significance on an increase in projections of 17.5% for FY 1999 in "excess resources saved, invested and spent."

The STFA also addresses the use of "interdepartmental accounts" as a funding source. According to the STFA, interdepartmental accounts are used to make special appropriations. The STFA points out that in the FY 1999 budget, the interdepartmental accounts category is increased from \$1,118,000,000 in FY 1998 to \$1,275,000,000 in FY 1999. The STFA calculates that is increase of \$158.8 million equals a 14.1% increase in the interdepartmental accounts category. Additionally, the Targeted Trust Fund Balance is projected to increase \$100 million from \$550 million to \$650 million in FY 1999. The STFA calculates that the Targeted Trust Fund Balance will increase 18.18%.

The STFA also notes that the structural deficit has decreased almost 80% since 1994. Compared to FY 1998, the structural deficit is projected to decrease by 33% or \$185 million. New Jersey Office of Management and Budget Director Pugh defined structural deficit as occurring when "appropriations in a given year exceed the amount of ongoing revenues that are received." When the State runs a structural deficit, the deficit is covered by "one shots" such as asset sales, according to Pugh. The STFA points out that "one shots" are included in the FY 1998 budget, but are eliminated in the FY 1999 budget. The STFA again points to Ms. Pugh's testimony to illustrate the importance of reducing the structural deficit. Ms. Pugh testified that reducing the structural deficit was one of Governor Whitman's priorities and it is a factor examined closely by bond rating agencies.

Elsewhere, the FY 1999 budget shows a projected revenue increase of 4.21% and fund balances that are projected to increase by \$97 million or 17.5%. The STFA points out that Office of Management and Budget Director Pugh identified \$50.7 million that will remain unspent from various accounts in FY 1998. In general, Director Pugh testified that the fund balance will increase because times are good.

The STFA also asked Director Pugh about the State's Rainy Day Fund, which has more than tripled since FY 1995. Director Pugh testified that increasing the amount in the Rainy Day Fund has improved the security and fiscal health of the State.

As additional evidence of the State's fiscal health, the STFA cites the statement of State Treasurer James A. DiEleuterio that, based upon revenue figures for March 1998, revenues continue to be above budget estimates, and "New Jersey's economy continues to produce solid profits for businesses, along with high rates of job growth and wage levels." Based upon all of this evidence, the STFA asserts that the relative cost of its proposal is infinitesimal in light of reserves, surpluses, lapsing funds and increased projections for FY 1999.

Addressing the cost of living, the STFA argues that its final offer is consistent with the pattern of cost of living figures and has a lower impact than previous STFA settlements. Relying upon the testimony from the Office of Employee Relations, the STFA points out that it has a history of receiving increases higher than the CPI. The STFA calculates the standard deviation between CPI rates in Northern New Jersey and the STFA settlements over the past 16 years to find a 3% standard deviation between the CPI and STFA settlements, with the Troopers receiving 3% more than the CPI. Looking to the future, the STFA uses the projected rate of inflation for 1999 published by the Department of Commerce and Economic Development, which is 2.9%. The STFA, then adding the standard deviation it calculated arrives at 5.9% as the appropriate amount for an award following the cost of living. However, the STFA notes that it seeks 4.5%, which is less than the established trend.

The STFA also cites the State Department of Commerce and Economic Development's projections for the "gross state product" to increase by annual rates of

6.1% and 5.6% and for the unemployment rate to drop. The Council's projection for personal income growth is 5.6% in 1998. The STFA points out that the State budget projection for personal income growth is 5.2%.

As further evidence that its final offer is supported by the cost of living criterion, the STFA cites the report of private sector wage changes compiled by the New Jersey Department of Labor. Specifically, the STFA cites the total private sector changes to be an annualized rate of 4.3%, very similar to the STFA's final offer. In addition, the STFA cites the analysis of Interest Arbitrator Stanley Aiges in the Borough of Bogota where Arbitrator Aiges gave the NJDOL report great weight in awarding annual 4.5% increases.⁹ The STFA also cites the Federal Law Enforcement Pay Reform Act of 1990, which includes a 16% pay differential for Northern New Jersey. The STFA suggests that comparisons with other States, such as Massachusetts, should include a 16% pay differential.

The STFA notes recent wage changes at other State institutions, including 17% increases for college presidents in New Jersey, including a 70% increase for the president of UMDNJ. Even without that increase, the STFA notes that average salaries for all college presidents increased 10%.

⁹ I take notice that the Bogota Award has been vacated and remanded for a new arbitration hearing.

The STFA maintains that per capita income growth in New Jersey supports its final offer. Within the New Jersey "Budget and Brief" the STFA points to a chart showing New Jersey as second highest in per capita income in the mid-Atlantic region, second only to the District of Columbia. The STFA points out that the New Jersey Budget and Brief also includes a calculation of the annual percentage change in per capita income, which in 1997 increases 5.23% over 1996. Relying upon the Budget narrative, the STFA stresses that the gross income taxes is projected to increase by \$304 million to \$5.3 billion, employment is projected to grow by 1.7% compared with initial an initial forecast of 1.3% and capital gains realizations will remain at historically high levels. Based upon these projections, the STFA asserts that the cost of living factor favors its final offer over that proposed by the State.

Addressing the continuity and stability of employment criterion, the STFA asserts that this criterion relies upon "area standards" or "prevailing rate" concepts. Applying these concepts, the STFA asserts that Troopers are behind comparable law enforcement agencies. Specifically, the STFA asserts that looking only at base wages as a point of comparison, Troopers lag behind comparable law enforcement agencies. The STFA argues that Troopers are paid below area standards in light of their unique responsibilities, including the physical fitness standards and testing. The STFA highlights the testimony of Trooper Kenneth McClelland that physical fitness standards require passage of a physical examination before a Trooper is permitted to take the physical fitness strength and aerobics tests. Using Trooper McClelland as an example,

the STFA points out that in order to pass these tests, Troopers typically work out 4 to 6 days a week for one half hour to forty minutes, plus warm-up, and showering.

Since the State imposes unique physical fitness requirements, the STFA asserts that workout time is employer time, and the State should compensate for this time. The STFA relies upon the finding of Arbitrator Carl Kurtzman in State of New Jersey Division of State Police and State Troopers Fraternal Association interpreting the physical fitness requirement as follows:

The language contained in SOP C-20 by Order of the Superintendent confirms that the performance of the off duty exercise assignment was predominantly for the benefit of the employer and the off duty exercise assignment constituted an integral or indispensable part of the employee's principle activities.

The STFA notes that Arbitrator Kurtzman cites the Sanctions for failing to participate in the physical fitness program as evidence of the "integral or indispensable" nature of Troopers' physical fitness activities. As a result, the STFA seeks to regularize the compensation component of Arbitrator Kurtzman's award, which covered only a limited time period.

The STFA also seeks access to proper exercise equipment. The STFA maintains that some stations in the Division have inadequate or poorly maintained equipment or have no equipment at all. The STFA asserts that access to adequate and well-maintained equipment is needed to permit Troopers to meet physical fitness standards required by the State.

The STFA proposal regarding discipline would provide a base line for orderly and proper hearing of discipline grievances. In support of this proposal, the STFA offered detailed testimony about Troopers suspended for long periods of time, including examples of suspensions up to two years long, without being brought up on charges. Additional problems arise from procedural deficiencies in Phase IV hearings for discipline of up to a five-day suspension. In order to correct these problems, the STFA seeks review of decisions coming up through Phase III by a Deputy Attorney General. The STFA seeks only review by a Deputy Attorney General, but does not seek specific standards. The STFA maintains that review of the decisions provided will demonstrate a lack of legal review or evaluation. The STFA expresses concern that virtually all of the decisions submitted at Phase IV affirm the actions taken at Phase III. Examples cited by the STFA include a two year delay over a trooper skipping a \$.35 toll and a four year delay over misuse of a fax machine. The STFA asserts that the long-standing practice included review by a Deputy Attorney General and the STFA seeks a return of that practice.

THE STATE OF NEW JERSEY

The State urges adoption of its final offer of the "State Package." The State characterizes its final offer as the "State Package" because it is "consistent with the package offered to and accepted by" each of the other civilian and law enforcement State employee groups. The "State Package" was created and designed by the Governor and her budget advisors to achieve a balanced budget as mandated by the

State Constitution and to achieve certain budgetary goals. The budgetary goals include stopping growth of the taxes, eliminating deficit spending and reducing the overall size and cost of government.

In order to achieve these goals, the State reviewed the budget, identified wasteful spending and targeted expenditures which were increasing more than the cost of living. According to the State, this review revealed that wages and benefits paid to its employees, particularly law enforcement employees, had "skyrocketed," exceeding wages and benefits paid to comparable employees in the public and private sectors in New Jersey and the nation.

As a result of its review and conclusions, the State created a State-wide negotiations package to reduce the rate of increase of all State employees uniformly, regardless of their negotiating unit. According to the State, even with the reduced rate of increase, its employees remain better compensated than other private and public sector employees. The State contends that, under its final offer the New Jersey State Police will remain the top paid state police organization in the country.

The State notes that its final offer to the STFA compares favorably to the State Package for non-law enforcement employees and for Corrections Officers represented by PBA, Local 105. Specifically, the State Package for non-law enforcement employees included wage freezes in the first two years, with a \$250 bonus in the second year that was not included in the base salary. Base wage increases of 3% and 3.25% were

included in the third and fourth years respectively, as were "givebacks" tailored to the economics and operations of the specific bargaining units. "Givebacks" for all non-law enforcement employees included contributions to the traditional indemnity health insurance plan.

For Corrections Officers, "givebacks" included a reduction in mandatory overtime (shift overlap), which the State calculates will save approximately \$17 million over the life of the agreement and will continue to save funds into the future. However, this "giveback" was the result of an interest arbitration award which also included no increases to base salary in the first two years, a \$1000 bonus not added to base in the second year and increases of 3.5% in the third year and 3.5% in the fourth year.

The State notes that due to different contract expiration dates, non-law enforcement State employees and corrections officers received a wage freeze in fiscal years 1996 and 1997. Under the previous agreement, the STFA received a 4% increase in FY 1996.

The State asserts that its final offer includes economic improvements in excess of those provided to other State employees and does not include "givebacks." In contrast, the State calculates that the STFA's proposal will cost an additional \$94,404,949 in wages and benefits over the four year term. According to the State, the SFTA's proposal is "ludicrous" given the State's "demonstrated need to reduce expenditures." Of that sum, the State calculates that \$52,461,295 would go towards

base wages and maintenance increases. In comparison, the State calculates that its final offer would cost \$7,335,000 in increased wages over the four-year period, less the cost savings from givebacks it seeks.

The State contends that the STFA has failed to justify the cost of its final offer, which the State calculates includes \$45,126,295 in wage increases alone, and is more than was received by any other State employees. The State asserts that the STFA is trying to circumvent its budgetary decisions. The Interest Arbitration decision issued by Arbitrator J. J. Pierson involving the State and approximately 8000 corrections officers represented by the PBA should provide guidance in this case, according to the State. In that award, Arbitrator Pierson "awarded increases and imposed givebacks in line with the State Package" and the State asserts that there is no reason to depart from that award in this case.

Turning to the statutory criteria, the State asserts that when each criterion is considered, its final offer is the only reasonable position. The State contends that the testimony and data it submitted demonstrates that the State Police are better compensated than any other State employees, comparable State Police units in other states and public and private sector employees generally. Specifically, the State notes that its State Police are the best paid among comparable State police officers in the United States. The State points out that the STFA's witnesses, Retired Lieutenant Colonel Lanny Robertson and Deputy Superintendent and Director of Training Joseph Brennan, confirmed that New Jersey State Troopers "are among the highest paid in the

country." The State asserts that its final offer will maintain the Troopers' status as the best compensated State Police organization in the country.

Addressing first the comparison between State Police and other State employees, the State demonstrates that State Police receive higher base wages than employees in comparable title ranges. Since the 1970's, the State has used the Hay system, where all job titles in State employment are given a numerical range. According to the State,

The assigned range is based upon job content, required skills, knowledge, training, work atmosphere and overall job desirability and worth, using a practice widely held within the industry of breaking down the job into essential elements and assigning points to each element.

While the State continues to use the Hay system, it contends that the "underlying intent...to equalize pay between comparable jobs" has been altered by collective negotiations.

According to the State, Troopers and employees in comparable title ranges were paid the same in the 1970's and early 1980's. The State contends that as a result of collective negotiations, Troopers now receive significantly higher salaries. For example, a Trooper 2 at Range had an annual salary of \$14,748 in 1981 and \$54,583 in 1996. In comparison a Head Nurse at Range 19 had an annual salary of \$15,486 in 1981 and \$43,754 in 1996. Likewise, a Teacher at Range 22 had an annual salary of \$17,927 in 1981 and \$50,968 in 1996.

The State also points out that its Troopers receive benefits superior to those provided to other State employees. Specifically, Troopers receive \$8,190 in maintenance allowance payments and \$900 in clothing allowance annually. In contrast, Senior Corrections Officers and Police Officers in Health Care receive a \$1,610 annual clothing allowance and Nurses receive \$550 annually. The State points out the history of maintenance payments dates back to the former barracks system that was eliminated in 1986, but the payments have continued and increased from \$3,400 in 1981 to \$8,190 presently.

Addressing health benefits, the State notes that Troopers have a "Trooper Wellness" program which provides for 100% reimbursement for all out of pocket expenses including deductibles and free access to staff physicians. The projected cost of "non-traditional State Police medical benefits" was \$1,479,649 for FY 1998. The State calculates that the non-traditional medical benefits cost \$560 per Trooper in FY 1998. Thomas J. O'Reilly, the Administrator in the Department of Law and Public Safety, testified that no other state employee receives total reimbursement for health care costs.

The State also notes that Troopers receive improved pension benefits through the Police and Fire Retirement System. Troopers also receive unlimited paid sick days compared to 15 days annually for other State employees.

In light of the current variance between the salary and benefits between State Police and other State employees, the State argues that acceptance of any portion of the STFA's final offer will only increase the gap without justification. In support of this

position, the State points to the testimony of David Collins, Deputy Director of the Office of Employee Relations regarding the State's efforts to develop a package to offer to all of its employees. Specifically, Mr. Collins, an attorney with over 17 years of experience in the Office of Employee Relations, testified that the State developed a four-year package. That package provided zero salary increases in the first two years, a \$250 bonus in the second year, and 3% base wage increase in the third year and a 3.25% increase in the fourth year. Based upon Mr. Collins' testimony, the State, in its post-hearing brief, provided the following table illustrating the package adopted by approximately 60,000 State employees.

	CWA	AFSCME	IFPTE	PBA
FY 1995	0%	0%	0%	0%
FY 1996	0%	0%	0%	0%
FY 1997	2% 7/97 1% 1/98	\$840 7/97 \$420 1/98	\$840 7/97 \$420 1/98	3.5%
FY 1998	2% 7/98 1.25% 1/99	\$840 7/98 \$525 1/99	\$840 7/98 \$525 1/99	3.5%
BONUS	\$250	\$250	\$250	\$1000

Mr. Collins testified that salary increases beyond the basis package for particular employee groups were paid for by "givebacks" in other areas. The State also notes that CWA, AFSCME and IFPTE also agreed to cost sharing for employees selecting the traditional indemnity health plan.

According to the State, the PBA received higher increases in the third and fourth years of the contract in exchange for “givebacks” in mandatory overtime, which resulted in over \$17 million in cost savings in the third and fourth years of the contract, as well as into the future. The State emphasizes that the arbitrator did not award salary increases in the first two years of the contract, even though he awarded over \$17 million in cost savings.

The State distinguishes the State/PBA interest arbitration award from the award issued by Arbitrator John Sands that awarded 3.5% in each of four years to the PBA unit at Rutgers because the Rutgers police were underpaid compared to police in comparable units.

As further support for its assertion that the “State Package” should be awarded, the State cited agreements with the AFT and the State’s nine colleges and one university, the AFSCME and OPEIU units at the New Jersey Institute of Technology, the EMS unit at the University of Medicine and Dentistry (UMDNJ) and 4000 Teamsters employed by UNDNJ. Each of these agreements followed the “State Package”. Citing Mr. Collins’ testimony, the State points to the settlements on the Garden State Parkway and the New Jersey Turnpike. Mr. Collins described these settlements as similar to the State Package with a four-year agreement, with no increases for the first two years, followed by 3.5% in each of the third and fourth years. Mr. Collins also testified that there were some “givebacks” and work rule changes in exchange for the increase above the State Package.

Mr. Collins also testified that the Garden State Parkway and New Jersey Turnpike settlements were modified versions of the State Package. According to Mr. Collins, wage increases in the third and fourth years of the contracts exceeded those in the State Package in exchange for "givebacks" resulting in cost savings for the Parkway and Turnpike. The State emphasizes that neither contract included salary increases in the first and second years.

Turning to comparables stressed by the STFA, the State suggests that the evidence of a PBA settlement with the Port Authority of New York and New Jersey presented by the SFTA was insufficient and should not be considered. Insufficiencies cited by the State include SFTA's failure to show that the unit has job functions comparable to the STFA, and testimony only about new or improved benefits and not about "givebacks". Additionally, the State points to the testimony of current and former presidents of the Port Authority PBA Gus Danese and Dom Evangelista, that the settlement included six salary increases over seven years. The State interprets their testimony to imply that the settlement included a one year net costs or net savings to the Port Authority of potential "givebacks". The State contrasts the testimony of PBA President Danese that he did not know what the net savings were, with accounts of the settlement published in New Jersey newspapers. The State characterizes the newspaper articles as discussing "givebacks" which will generate substantial savings. The State points out that neither witness testified as to previous PBA salary increases or the comparison between salary and benefits received by the PBA and STFA overall.

The State argues that the absence of supporting documentation compels the conclusion that documentation would not support the testimony of these witnesses.

Additionally, the State points out that since the Port Authority is a bi-state agency, the State does not have direct control over its negotiations. The Governor's veto power over an agreement has never been exercised.

Based upon the comparability evidence, the State asserts that the STFA's final offer of base wage and maintenance increases of 4.5% in each year of the agreement, plus an additional one and one-half hours pay per day for physical training, combined with tuition reimbursement and \$15.00 in additional pay for each college credit is not justified. The State argues that the STFA seeks unjustified deviation from the "State Package".

Responding to the STFA's comparison of Trooper salaries and benefits to those received by county and municipal law enforcement officers, the State suggests that any meaningful comparison must include maintenance, longevity, and all other "cash add-ons" such as holiday pay. The State asserts that the STFA's comparison of maintenance payments with longevity pay is misleading. According to the State, Troopers receive maintenance payments for their entire careers, while longevity increases with years of service. The State points out that several of the municipal longevity payments cited by the STFA are for officers with more than 20 years of service. The State asserts that comparison of the full value of such benefits over an

entire career favors the maintenance payment, since the full amount is paid throughout a Trooper's career and continues to increase with rate increases.

The State compares the sums received from maintenance payments over a 25-year career with the amounts received from longevity payments in Hillsborough, Rahway and Union City. The State selected these communities from the municipalities used for comparison by the STFA because Hillsborough was the municipality with the lowest longevity benefits, Rahway was in the midrange and Union City has the highest longevity. Using the current annual maintenance payment of \$8190 for each of the 25 years, the State calculates the benefit is worth \$204,750. In comparison, using contractually mandated longevity rates, the State calculates that over 25 years, a Hillsborough police officer would receive \$13,500 in longevity payments; a Rahway police officer would receive \$83,514 in longevity payments; and a Union City police officer would receive \$169,289. From this comparison, the State concludes that New Jersey State Police earn far more with maintenance payments than most municipal police officers receiving longevity over a 25-year career.

The State also points out that while State Troopers are not paid for holidays, they do receive time off, which is a benefit to Troopers and a cost to the State. The State asserts that even including the cost of holiday pay and longevity Troopers fare better than municipal officers. The State takes issue with the STFA's argument that municipal police officers receive better sick leave benefits than State Troopers, pointing out that

Troopers have unlimited sick leave. Troopers also receive a terminal leave benefit of 30 days full pay at retirement, according to the State.

Comparing State Police benefits with those provided to municipal police officers demonstrates that State Police fare better than municipal police and will continue to do so under the its final offer, according to the State.

The State rejects the STFA's argument that the State has provided greater increases to the State Police historically. The State maintains that the State Police have, in some years, received greater increases than civilian employees, but that no such pattern of increases exists. Rather, the State suggests that STFA reliance on an existing disparity to expand the salary differences between State Police and civilian employees is a circular rationale. Instead, the State seeks to maintain the present gap by applying the "State Package".

Placing comparisons in historical perspective, the State points out that the PBA and the State Police have received the same percentage wage increases. Over a 14-year period, the State Police received cumulatively only 2.35% more than the PBA, according to the State's calculations. The State calculates further that the difference comes out to under .2% per year. Under this situation, the State finds no historical justification from deviating from the pattern upheld by Arbitrator Pierson.

The State believes that its Package balances the needs of all employees with the need to treat all of its employees fairly. In support of this belief, the State quotes from Arbitrator Pierson's award as follows, "the State has taken affirmative steps in considering the interest and welfare of the public by drawing on a uniform economic proposal to develop consistency in results." Arbitrator Pierson's award continues by stating that these steps "have been productive, and the interests and welfare of the public have been well preserved by the State."

The State contends that the State Police wages and benefits exceed those received by State Police across the country and by private sector employees generally. In support of this assertion, the State presented testimony from the Administrator of the Department of Law and Public Safety, Thomas J. O'Reilly, as well as contracts from comparable State Police organizations across the country. Mr. O'Reilly testified that the State Office of the Attorney General identified State police agencies whose duties, core functions, size and strength of force were closest to that of the New Jersey State Police. According to O'Reilly, the State also compared geographic, economic, demographic and general environmental factors. The Officer of Attorney General then contacted representatives of each state, reviewed state laws, annual reports, collective bargaining agreements and interest arbitration awards. As a result of the State's research, it selected Illinois, Pennsylvania, Delaware, Massachusetts, New York, Maryland and Michigan for comparison.

According to Mr. O'Reilly, New Jersey State Police receive greater salary and benefits than comparable State Police nation-wide. Additionally, Mr. O'Reilly testified that New Jersey State Police perform duties that differ little from those performed by police in other States. The States selected for comparison also had a similar number of special functions. For example, the Massachusetts State Police have jurisdiction over Logan Airport and the Port of Boston. Pennsylvania State police have jurisdiction over Pennsylvania parkland. Based upon this comparison, as well as the conversations State representatives conducted with representatives of the states used for comparison, the State asserts that "both the starting and maximum compensation of New Jersey State Police outrank any other comparable State Police organization."

The State defined "maximum compensation" as "all contractual W-2 income for a trooper at the highest rank below non-commissioned officer including base wages, longevity, clothing and maintenance allowances, educational incentives, holiday pay and guaranteed overtime." The State included "all pay add-ons to the extent possible (including maintenance, longevity, holiday pay, educational incentives and guaranteed overtime). The State did not include uniform/clothing allowances and shift differentials. Then, examining both starting and maximum compensation, the State found that New Jersey State Troopers start at \$42,905 and their maximum salary is \$65,313. These figures were compared to the starting salary of \$33,480 and maximum salary of \$61,188 in Illinois, starting salary of \$35,511 and maximum salary of \$60,360 in Pennsylvania, starting salary of \$35,325 and maximum salary of \$59,778 in Delaware, starting salary of \$41,431 and maximum salary of \$59,641 in Massachusetts, starting salary of \$41,

250 and maximum salary of \$55,894 in New York, starting salary of \$30,403 and maximum salary of \$47,541 in Maryland and a starting salary of \$28,814 and maximum salary of \$45,807 in Michigan. The State points out that the starting and maximum compensation levels used in its comparison of New Jersey to comparable states includes all increases received through May 1998. Therefore, the State reasons that even if the wages of its Troopers were frozen through May 1998, New Jersey State Police would still be the highest paid Troopers in the country. The State notes that retired Lieutenant Colonel and Deputy Superintendent Lanny Robertson and Director of Training Joseph Brennan acknowledged that New Jersey State Troopers are among the highest paid in the nation.

The State also relies upon the testimony of Robert Baus, title of Buck Consultants, a pension actuary firm representing the State. Mr. Baus testified that the State's Troopers receive greater pension benefits than those in comparable states. Specifically, according to Baus, the State's Troopers' pension benefits are among the top five to seven in the nation. Health benefits are also among the top in the nation, according to the State. New Jersey and only six other states provide fully-paid traditional indemnity coverage for employees and their dependents and only seven states and New Jersey provide fully-paid coverage for retirees and their spouses. As a result, New Jersey's health care costs are the sixth highest in the nation and New Jersey spends more than any other state in total dollars budgeted for health benefits.

The State contends that STFA's argument that New Jersey enjoys one of the highest per capita income averages in the nation is undocumented. The State relies upon the State of Working in New Jersey 1997, published by the New Jersey Center on Economic Policy and Education, which provides that income levels may have decreased and household income may have declined, depending upon where in New Jersey one lives. According to the State, this report also shows that prosperity is relative and those living close to New York City are faring well, and, as a whole New Jersey residents do not fare as well. The State maintains that this distinction is important because most State Troopers do not live in the high cost and high income areas near New York City.

Turning to the impact of the final offers on the governing body, the State maintains that its package is more reasonable than that offered by the STFA. The State compares the \$7,335,000 cost of its final offer (excluding any savings associated with "givebacks") with the \$94,404,949 cost of the STFA's final offer. The State highlights the \$87,069,949 difference between the cost of its final offer and the cost of the STFA's final offer. The State contends that over \$87 million can not be considered "imperceptible" to a department "whose budget was reduced by upwards of fifty million dollars." The State asserts that the STFA has not provided a reasonable justification for the additional \$87,069,949 that its final offer will cost. In contrast, the State notes that its final offer has a more favorable financial impact on the governing body.

Specifically, the State asserts that its final offer meets the Governor's budget priorities of reducing the size and cost of State government and improving the quality of life for New Jersey residents by reducing taxes without impacting services. Betsy Pugh, Director of the Office of Management and Budget testified that in order to achieve these goals, elimination of over \$1.5 billion dollars in "structural deficit" was a budgetary priority. Ms. Pugh explained the "structural deficit" as the difference between "the dollar amount brought in for revenues" which "has been less than the dollar amount required for appropriations." According to Ms. Pugh, when Governor Whitman took office, the structural deficit was approximately 1.5 billion dollars and for FY 1999, it will be approximately \$371 million. The problem with the structural deficit as explained by Ms. Pugh is that "over spending" results in the use of "one shot" revenue sources and/or use of fund balances (surpluses) to pay for current budget needs.

According to the State, in order to eliminate "deficit spending," it needed to reduce expenditures and undertook a detailed budget review. No department within the State, including the Department of Law and Public Safety, was immune from the Governor's mandate to reduce costs. The State points to Thomas O'Reilly's testimony that resources have decreased steadily. Specifically, appropriations to the Department of Law and Public Safety direct state service were \$356,249,000 in 1989 while the FY 1999 budget calls for \$246,749,000. According to the State, this 44% reduction over the last ten years is true of all departments within the State. Specifically, the State notes that total appropriations have increased by over 42%, from \$11.9 billion in FY 1989 to \$17.0 billion in FY 1998, but money allocated for operating expenses, i.e. direct

state service, have been reduced from \$4,952,335 in FY1989 to \$4,139,837 in FY 1998. According to O'Reilly, cost reductions together with increasing costs of State Police salaries and benefits have resulted in fewer civilian positions within the Department generally, and within the Division of State Police particularly. Specifically, the State Police now consume 78% of the Department's salary appropriation compared with 72% in 1989.

Additionally, the State conducted a review of the wages and benefits of all State employees and found that the "average per employee cost of New Jersey State government was far greater than that of other states in or the private sector." As a result, the State determined that it needed to reduce the total costs of wages and benefits in order to achieve a balanced budget. According to the State, it achieved its goal of reducing the total cost of wages and benefits by reducing the size of its workforce and by developing a wage and benefits package which would slow the rate of increase. The State has reduced the size of its workforce by a total of 9,000 employees since 1990, with 4,000 positions eliminated during the Whitman administration. During this period, the number of State Troopers has remained constant. The State has sought to achieve the second prong of its goal by negotiating for its "State Package" of a two-year wage freeze, with small percentage increases in the third and fourth years and "givebacks" in benefits in excess of those received by comparable employees.

Ms. Pugh testified that to achieve the second prong of its goals, the State budgeted for no wage or benefit increases beyond increments for State Police for the

first two years of the agreement. Pugh testified further that an award in excess of the amount budgeted must be taken from another appropriation. The State asserts that given the Governor's budget priorities and that New Jersey State Police are better compensated than other State employees and than state police in other jurisdictions, "borrowing from Peter to pay Paul is totally unjustified." The State contends that its State Police have already received wage and benefit increases at the expense of other State employees, especially non-enlisted employees in the Department of Law and Public Safety. Additionally, the State asserts that requiring other State employees to bear the burden of further reductions or job loss to cover the \$94,404, 949 cost of the STFA's final offer is "wholly unjustified."

The State argues that any claim by the STFA that its final offer can be funded by through surplus rather than a negative impact on the State or its taxpayers is rhetoric. The State asserts that STFA has not presented evidence that use of surplus is a viable option. Ms. Pugh testified that its current surplus balance is \$650 million, or 3.5% of the total budget. Specifically, \$500 million of the surplus is in a statutorily mandated Rainy Day Fund, which can be used only in emergencies with the approval of the Governor and the Legislature. Ms. Pugh opined that wage and benefit increases beyond those budgeted would not rise to the level of an "emergency" for Rainy Day Fund purposes. The remaining \$150 million is in undesignated fund balances.

Ms. Pugh testified that 3.5% in fund balance is "the bare minimum" if the State wishes to maintain its AA bond rating. According to the State, using its surplus in

“relatively good economic times” would be construed by Moodies and other bond agencies as “evidence of ‘dire financial straits’” and could reduce the State’s overall bond rating.

The State disputes the STFA claim that a large portion of total police expenditures is funded by outside agencies and outside source money. To the contrary, pointing to the testimony of Ms. Pugh and Mr. O’Reilly, the State contends that grant money and money from forfeitures and seizures are not used to pay Trooper wages and benefits, and in most cases can not be used to do so. The State asserts that reimbursements from the Turnpike and Parkway effect only a small portion of State Troopers. The State also points to Mr. O’Reilly’s testimony that, due to increasing costs of wages and benefits, the Turnpike has reduced the number of Troopers patrolling the road.

The State also disagrees with the STFA’s attempt to claim funds and goods received through forfeitures and seizures. The State points out that Troopers’ job is to enforce the law. The State suggests that applying this argument to other State employees would result in very highly paid tax collectors because they are responsible for the largest generation of funds in the State.

Addressing the statutory criterion for cost of living, the State asserts that the State Police have significantly outpaced increases in the cost of living over the past 15 years and will continue to “stay ahead in real dollar terms.” According to the State, base

wage increases for State Troopers have outpaced increases in the CPI since 1981 by 33%, or an average of 2.2 percent annually. In comparison, other State employees, including those in the AFSCME, CWA and IFPTE units received increases of 9.3%, or less than one percent annually. The State uses an example of a State Trooper hired at a base salary of \$14,045 in 1981 to illustrate the increase in State Trooper salaries. In 1997, that same State Trooper would be at the top step as a Trooper 1 and would earn \$57,123, or an increase of \$43,078 or 307% in 15 years. Over that same period, the State notes, the CPI increased 69.8%. The State calculates that the difference represents an increase of 237.2% in real dollars to State Police.

In response to STFA's argument that the two year wage freeze included in the State's offer will hurt State Troopers' position with respect to the CPI, the State notes that under its final offer, State Troopers will remain far ahead of the CPI over time. Assuming future increases in the CPI of 2.5%, the State estimates that from 1981 through 2000, under its final offer, State Troopers will have outpaced the CPI by over 230%.

The State asserts that its final offer promotes the continuity and stability of employment, which would erode under the STFA's final offer. The State notes that the STFA has presented no evidence to suggest that State Troopers might seek other employment if its final offer is not selected. The State cites the testimony of Joseph Brennan, Director of Training for the New Jersey State Police. Mr. Brennan testified that the starting salary for a State Trooper is high enough to attract 4500 applicants for

230 positions. According to Mr. Brennan, the large number of applicants relative to the number of vacancies because "it is a great job with great benefits." (T-80 ¾). Mr. Brennan also testified two members of a recent training class were New York State Troopers.

The State also points out that the continuity and stability of employment for State employees other than State Troopers could be effected adversely by an award in excess of the amount budgeted for the State's final offer. Specifically the State cites the testimony of Ms. Pugh that additional funding for additional costs to pay for State Trooper salaries and benefits would come from other programs. Since other departments have already had significant budget cuts, further cuts in these departments would be likely to result in layoffs, according to the State. Additionally, the State points out that the Department of Law and Public Safety's budget is "skewed" to fit the State Police payroll. In support, the State refers to Mr. O'Reilly's testimony that the Division's civilian staff has been eroded due to the need to fund the Police payroll. The State notes that O'Reilly also testified that the increased costs of State Police salaries has resulted in the New Jersey Turnpike reducing the number of State Police patrolling the highway.

The State asserts that its final offer best serves the interest and welfare of the public. The State reiterates that its final offer is based upon its efforts to reduce the size and cost of government and to improve the quality of life for its citizens. As a result, the State created the "State Package" which has been adopted by or award to each

employee group in New Jersey except the State Police. The State urges that its "State Package" be awarded to serve the best interest and welfare of the public. The State adds that maintaining equity among employees also serves the public interest and welfare. In support of this contention, the State cites the interest arbitration award of Arbitrator Pierson addressing the interest and welfare of the public in the Corrections Officers award as follows:

The State has taken affirmative steps in considering the interests and welfare of the public by drawing on a strategy of uniform economic proposals to develop consistency in results.

In this Arbitrator's opinion, the State has demonstrated a concerted effort to lessen the economic impact on the taxpayer by offering each bargaining unit a consistent and uniform economic proposal. The strategy of the State (to effectuate fiscal stability by standardizing the economic proposal to each bargaining unit) and the recommendations of OMB (to effectuate economic order in formulating the State budget) have been productive and the interests and welfare of the public have been well pursued by the State.

The State recognizes that it is in the interest and welfare of the public to have an adequately paid and staffed police force. The State asserts that its final offer will maintain its State Police ranking as the highest paid State Police agency in the nation. Additionally, the State notes that the evidence submitted by both parties demonstrates that New Jersey will continue to be one of the best trained and staffed state police departments in the country. The State contrasts this scenario with the potential for fewer State Troopers patrolling the State's highways if the STFA's final offer is awarded. The State relies on Mr. O'Reilly's testimony that, as a direct result of increases in Trooper salary and benefits, the New Jersey Turnpike reduced the number of Troopers guarding and protecting the Turnpike. The State cautions that the STFA's final offer

could lead to further reductions in Troopers patrolling the State's highways, which would harm the public interest and welfare. The State also points to the testimony of Mr. O'Reilly and Ms. Pugh that increases in excess of that budgeted could result in fewer resources available to devote to the civilian employees in the Department of Law and Public Safety, which would not be in the interests and welfare of the public.

Turning to the remaining terms of the State's final offer, as part of its "State Package, the State has proposed "givebacks." The State asserts that these proposals will help the Division of State Police operations, save money, and permit the New Jersey State Troopers to maintain their ranking as the best paid, equipped and trained State Police organization in the United States.

First, the State proposes to reduce the shift differential from 7% to 5% and to modify when the State will be required to pay it. Currently, the 7% shift differential is paid for any hours worked between 9:00 p.m. and 7:00 a.m. The State contends that shift differentials are meant to compensate employees who work regularly during "off" or night hours. The State reasons that it should not pay a differential to those employees who are called in to work early or who work past their regular shifts, unless the employees work a "significant number of hours into the night." Following this rationale, the State proposes that the "differential be paid only when the Trooper works at least half his hours between 11:00 p.m. and 6:00 a.m." The State also seeks to limit the differential to 5%.

Next, the State proposes to limit tuition reimbursement to Master's level courses and below and to require that all tuition reimbursement above the bachelor's level be job related. The State asserts that these modifications would permit the best use of limited funds available for tuition reimbursement. According to the State the best use for the limited funds available is insuring that a Trooper earning a bachelor's degree will receive full reimbursement, rather than reimbursement that is limited by Troopers seeking non-job related master's degrees or post-graduate degrees, such as a law degree.

The State also proposes to eliminate the provision of double increments to Troopers during their first two years of service and to stop "fast-tracking" Troopers. The State notes that the practice of "fast-tracking" or allowing Troopers to jump a job range and an increment level simultaneously is not contractual. Both of these practices, which speed Troopers' advancement to top pay, go around the agreed upon wage progressions, according to the State. Given that its Troopers are paid better than Troopers in other states at the entry level as well as at the top step, the State argues that these measures are unwarranted.

The State seeks to change the hours of work provision to reduce the 72 hours notice provision to 24 hours. According to the testimony of New Jersey State Police Superintendent, Colonel Carl Williams, any shift or schedule change with less than 72 hours notice results in the employee receiving the overtime rate for the entire work obligation, including regularly scheduled work. The State points to Colonel Williams'

testimony that, the greater flexibility afforded by this is necessary to meet scheduling needs. Those scheduling needs include court appearances, special details, such as when President Clinton or another dignitary with special security needs comes to the State, and unanticipated needs. Colonel Williams testified that the current 72-hour rule coupled with the four days on, three days off work schedule is an operational and economic burden to the Department.

The State also seeks to amend the Specialist Selection language in the agreement to permit the Division flexibility to move "Troopers who are serving in a specialized capacity to another specialized position within the same section, without any posting requirements." Colonel Williams testified that this modification would permit the Division to move Troopers with specialized experience to positions where they would be used most effectively without "the time consuming special selection process." Colonel Williams testified:

What we would like to be able to do is take that detective out of the criminal enterprise racketeering bureau and move over, switch with the detectives in the investigations bureau, without going through the time consuming special selection process.

Colonel Williams explained that these positions are very demanding and the "burnout" is a problem. Switching detectives between bureaus helps to alleviate the stress and burnout. At present, detectives must be moved back on the road and not into another bureau during the special selection process. The State's proposal seeks to permit the direct switch without sending the Trooper back on the road.

The State also proposes to reduce the level of wages and benefits paid to new hires, beginning with the 118th class. The State stresses that this proposal would have no impact on current employees. Rather, the State seeks to lower the wage scales for new hires to reduce the difference between salaries paid to New Jersey State Troopers and those paid to State Police in comparable states. The State also seeks to eliminate the maintenance payments for newly hired State Troopers. In making this proposal, the State reiterates that originally, maintenance payments compensated Troopers for barracks life, and the barracks system was abolished in 1976.

Finally, the State urges rejection of the STFA's discipline proposal because it is non-negotiable. Additionally, the State argues that the discipline proposal should be rejected on its merits because the STFA has not offered evidence regarding any need for change in the current system. The State also urges rejection of the STFA's proposal to modify the grievance procedure because the STFA has not offered evidence justifying the need for a change.

DISCUSSION

As stated above, I am required to issue an award based upon a reasonable determination of all issues in dispute after giving due weight to the statutory criteria which I judge relevant. The State and the STFA have articulated fully their positions on the issues and have presented testimony and submitted evidence and argument on

each statutory criterion to support their respective positions. The evidence and arguments have been carefully reviewed, considered and weighed.

I have considered the statutory criteria and conclude that all are relevant to the resolution of the dispute, although, as set forth below, not all have been accorded equal weight. As required by law, I have also decided, to the extent that they are calculable, the total net annual economic changes for each year of the four-year award.

Initially, I note that several issues remain in dispute. One principal which is ordinarily and traditionally considered in the determination of wages, hours and conditions of employment through the bargaining process is that a party seeking such change bears the burden of showing the need for such modification. I apply that principal to the analysis of each issue.

I conclude that the need for modification has been demonstrated with respect to non-economic proposals concerning notice of scheduled shift changes, specialist selection, availability of appropriate and well-maintained exercise equipment and certain disciplinary procedures.

The State has proposed to modify the language which requires that any scheduled shift change with less than twenty-four (24) hours notice be paid at the overtime rate. As Colonel Williams testified, at present any shift or schedule change made with less than 72 hours notice results in the employee receiving the overtime rate

for the entire work obligation, including regularly scheduled work. Colonel Williams testified that this requirement results in scheduling difficulties, particularly with respect to court appearances and special details although he acknowledged that the focus of the Division's proposal centers on overtime. He believes that the present notice requirement presents an economic burden to the State. No specific evidence or study was presented to quantify the impact of the reduction from 72 hours to 48 hours or to 24 hours. I conclude, based upon Colonel Williams' testimony that the 72 hour notice requirement is arduous and in need of modification. However, it has not shown the need to limit the notice requirement to 24 hours at this time. The record reflects that the notice period was originally modified from 24 hours to 48 hours in 1985 as a result of an arbitration award. It was subsequently modified to 72 hours. I conclude that a reasonable modification to this provision would be to modify the notice provision to 48 hours. This change should promote administrative efficiencies in applying this provision and reduce overtime costs. This would place the notice provision at the number of hours which was set approximately 15 years ago. This change will provide a time period between now and contract expiration to examine the impact of this reduction on Trooper scheduling and overtime costs. This modification will permit the parties to evaluate the effectiveness of the change and pursue any further modifications to the notice provision at the expiration of this agreement on June 30, 2000 while continuing to compensate Troopers for schedule changes on short notice. Therefore, the 72-hour notice requirement is modified to 48 hours.

The State also seeks to eliminate the posting requirement for Specialist Selection. Currently, when the State seeks to transfer a Trooper Specialist to a different bureau within the same section, the State must follow the posting process. While the posting process is in progress, the effected Trooper is typically placed back on the road. The State seeks this modification to allow a direct and efficient transfer. According to Colonel Williams, Troopers in specialized positions typically experience high stress and burnout. Transferring positions minimizes burnout. The effect of eliminating the posting requirement for transferring Troopers in Specialist positions to other Specialist positions within the same section is limited and would benefit both the effected Troopers and the State. The State's proposal furthers efficiency in its operations and is in the public interest. Accordingly, the modification is awarded.

Citing the annual physical fitness test Troopers are required to pass, the STFA seeks appropriate and well-maintained exercise equipment. The STFA has provided voluminous evidence that the exercise equipment provided throughout the State is in need of upgrade. I credit the testimony that the exercise equipment is provided at locations throughout the State, but has not been maintained or upgraded recently. Accordingly, the agreement shall be modified to provide that the State shall make every reasonable effort to insure that existing exercise equipment will be repaired or upgraded as necessary on an ongoing basis.

The STFA seeks to require that all Phase IV grievances be conducted before a Deputy Attorney General in order to enhance the level of review of Phase IV hearings

and to speed up the process. It also seeks the inclusion of comprehensive disciplinary procedures set forth in Attachment A. The State asserts that the Phase IV proposal should be rejected because it is not negotiable and because the STFA has not shown a need to change the current system. However, the STFA has cited examples which show that the current system requires employees to wait unduly long to determine the outcome of disciplinary proceedings. The STFA has shown that the length of the proceedings appears to be unreasonable. The disciplinary process should be more expeditious and the Division should make every reasonable effort to complete disciplinary proceedings more promptly. The morale of the work force would benefit from speedier processing of these matters. Currently many cases take over two years from the time of the incident to the Phase IV decision. However, I do not believe that it would be an appropriate exercise of my authority to place a time limit on completion of disciplinary proceedings or to determine who the State's representative should be at Phase IV. Similarly, I do not award the inclusion of Attachment A. Disciplinary procedures are critical to the smooth operation of the Division. These issues, including issues of due process, should be the subject of intensive review by the parties. I conclude that a joint committee be established for the purposes of recommending revisions to existing disciplinary procedures. The appropriate body to create the committee mechanism shall be the Office of Employee Relations.

The State and the STFA have also submitted numerous economic issues which I conclude are not supported by the evidence. Specifically, the tuition reimbursement and educational incentive proposals offered by the State and STFA are not justified.

The State seeks to limit tuition reimbursement to those earning a bachelor's degree or to job related course work above a bachelor's degree. The STFA seeks to assure the availability of funds for tuition reimbursement and to provide an annual educational incentive payment. Neither the State nor the STFA has demonstrated a need to change the current provision in any respect and the STFA has not shown a need to provide an educational incentive.

Additionally, the STFA seeks payment of one hour per day at the overtime rate for physical fitness training and the State seeks to reduce the shift differential from 7% to 5% and to modify when the State is required to pay that differential. The State's justification for its shift differential proposal is to compensate only those employees who are called in to "work a significant number of hours into the night." The State's concern is insufficient to justify a change of this magnitude.

The STFA seeks compensation for off-duty physical fitness training time. The STFA proposes to include on a permanent basis, a benefit provided by Arbitrator Kurtzman on a limited basis. Arbitrator Kurtzman found that the Division violated the parties' 1982 – 1984 agreement during the period from January 21, 1986 to June 1, 1987 when it required Troopers to workout during off-duty hours to prepare for the physical fitness test. Effective June 1, 1987, the Division removed the workout requirement, although passing the physical fitness test continues to be required. As a result, Arbitrator Kurtzman found the removal of possible sanctions for failure to participate in a physical fitness program in preparation for the physical fitness test, left

the decision to workout to the discretion of each employee. Therefore, Arbitrator Kurtzman concluded that, "there is insufficient evidence in the record to conclude that the continued existence of the physical fitness test created an 'implied' need to workout during off-duty hours in order to be properly prepared for the fitness test." Arbitrator Kurtzman's award does not justify continuation of this benefit past the period during which workouts were required. Nor does the existence of a physical fitness exam justify payment of one hour at overtime rates for off-duty exercise time.

The remaining economic issues represent the most substantial areas of this dispute. The views of the State and the STFA are in sharp disagreement. Both parties place great weight on the criteria addressing comparison of wages, hours and conditions of employment. The State stresses the adoption of its "State Package" by virtually all other State employees. The STFA emphasizes other police settlements in New Jersey, including the settlement between the Port Authority of New York and New Jersey and the PBA.

At the outset of my analysis of the main economic issues, I stress that although all of the comparisons presented are relevant and entitled to certain weight, none of the comparisons deal, as I must, with issues which are unique to the Trooper bargaining unit. These include cost saving and cost reduction elements which are unique to the Troopers and which have considerable value as offsets for the costs of wage enhancements. The State has presented several cost saving proposals relating to many key compensation elements of the existing collective negotiations agreement.

The State suggests that comparison of wages, hours and conditions of employment enjoyed by Troopers with those enjoyed by other State employees is paramount in this case. The State emphasizes the "State Package" which formed the basis for settlement with all other State employees and asserts that comparison of Troopers to other State employees dictates an award that follows the "State Package". In contrast, the STFA focuses on settlements among county and municipal law enforcement employees in New Jersey, the settlement with the Port Authority of New York and New Jersey, the award at Rutgers University and settlements among trooper units in different states.

Settlements with other State employees is an important factor in this award. However, the settlements with other State employees were achieved for a different duration and in a different economic environment. Most of the agreements with other State employees were reached in 1995 and 1996, before the budget reforms enacted by Governor Whitman and the improving economy nationally had a significant impact on New Jersey's economy. As such, they must be balanced with settlements achieved in the current period of economic well being. Those settlements include county and municipal police agreements, as well as agreements covering other State police departments and bi-state police departments such as the Port Authority of New York and New Jersey.

The "State Package" is a four-year agreement, with zero percent increases to base wages in FY 1995 and FY 1996. State employees represented by CWA, AFSCME and IFPTE received \$250 bonuses in FY 1996, and the PBA received a \$1000 bonus in FY 1996. Non-police State employees received base wage increases equal to 2% on July 1, 1997; 1% on January 1, 1998; 2% on July 1, 1998, and 1.25% on January 1, 1999.¹⁰ State employees represented by the PBA received 3.5% in FY 1997 and FY 1998. Each of these agreements included benefit concessions. CWA, AFSCME and IFPTE agreed to cost-sharing for employees who chose to remain in a traditional indemnity health plan and the PBA agreed to changes to mandatory overtime to achieve cost savings.

This "Package" is an important factor in this award, but it must also be viewed in light of historic differences between the State settlements with its other employees and its settlements with the Troopers and also any cost saving proposals of the State which are unique to the Troopers which may be included in this award. Initially, it is important to note that all State contracts, except the Troopers, cover FY 1995 through FY 1998. The Trooper agreement will cover FY 1996 through FY 1999. Historically, the State and the Troopers have negotiated their contract a year after other State employees and Trooper agreements have not followed in lockstep with other State contracts. As noted in the testimony from the Office of Employee Relations, Troopers have received more

¹⁰ Settlements at the State Colleges, UMDNJ, the New Jersey Turnpike Authority and the Garden State Parkway were based upon the "State Package".

generous packages than other State employees. Additional evidence of the differences between Trooper settlements and those for other State employees can be found in the wage disparity pointed out by the State. Comparing Trooper salaries to Head Nurses and Teachers, the State demonstrated that over a 15-year period, Trooper salaries have outpaced those for other comparable positions.

The State asserts that the current disparity must be checked by an award in keeping with the "State Package." However, this disparity demonstrates that Troopers have not followed other State settlements historically. Given the historic differences between Trooper bargaining and bargaining with other State employees, the "State Package" is given great weight, but does not control this award, especially in light of the State's cost saving proposals which are unique to the Troopers.

I do conclude that that aspect of the "State Package" which does not include base wage increases in FY 1996 must be awarded here. The record reflects that all of the State's collective negotiations agreements included no base wage increases in FY 1996. This result was achieved by both voluntary settlements and through an interest arbitration award in a law enforcement unit. Because all State employees contributed to the State's successful efforts to restore its fiscal health in FY 1996, it is reasonable to conclude that the Troopers too must share in that sacrifice. Accordingly, I award no increase in base wages for FY 1996, the first contract year.

I now turn to an analysis of fiscal years 1997, 1998 and 1999, the second, third and fourth contract years. This requires further application of the statutory criteria and consideration of the relationship between the State's cost reduction proposals unique to the Troopers and the amount of wage increases to be awarded.

The STFA would place greater weight on comparison with law enforcement personnel at the county and municipal level in New Jersey. Citing benefits such as longevity, educational incentive and accumulated sick leave at retirement, as well as average salary increases, the STFA seeks increases comparable to those provided county and municipal law enforcement personnel. The State suggests that comparison of Troopers to county and municipal law enforcement demonstrates that Trooper maintenance payments and the Well Trooper Program and other benefits unique to State Police more than make up for the lack of longevity and accumulated pay out of sick leave at retirement.

The record demonstrates that Troopers are compensated at levels that are comparable to or better than those provided to county and municipal law enforcement personnel. Since Troopers work in the same jurisdictions, sometimes side by side with county and municipal law enforcement personnel and receive compensation that is roughly comparable, wages, hours and benefits provided to county and municipal law enforcement personnel are valid points of comparison. Average salaries in counties and municipalities throughout New Jersey are important to this determination and are accorded substantial weight. However, police contracts throughout New Jersey must

be balanced with the sacrifices inherent in terms of the "State Package" covering other State employees.

Based upon the localities chosen by the STFA, county and municipal salaries increased an average of 4.403% in jurisdictions where the parties achieved a settlement. Where the dispute was resolved through interest arbitration, average settlements for 1996 were 3.803%. In 1997, settlements averaged 4.242% and interest arbitration awards averaged 3.857%. In 1998, settlements averaged 4.205% and interest arbitration awards averaged 3.884%. Settlements for 1999 average 4.223% and interest arbitration awards average 3.925%.

Recent settlements and awards covering police at Rutgers, the State University of New Jersey and the Port Authority of New York and New Jersey are also important. Both the Rutgers award and the Port Authority settlement date to early 1998, during economic times that differ significantly from the economic difficulties present when the "State Package" was negotiated. The timing of these contracts is relevant because they were achieved in economic times similar to those effecting this award.

Arbitrator John Sands awarded four annual increases of 3.5% each to the Police at Rutgers. Arbitrator Sands found that Rutgers' police were earning less than comparable police forces and a wage freeze was inappropriate in light of the need for the Rutgers' Police to earn comparable salaries. However the importance of that award is limited by the special circumstances resulting from the need to attain comparability.

The agreement between the PBA and the Port Authority includes base wage increases totaling 25% over 7 years from January 21, 1996 through January 20, 2003. The agreement includes increases of 4% effective January 21, 1996, 4% effective March 15, 1997, 4% effective May 1, 1998, 4% effective July 15, 1998, 4% effective September 1, 2000 and 5% effective November 15, 2001. Although the increases are provided at 14-month intervals, the average increase is 3.57% per year over seven years. Governor Whitman elected not to exercise her authority to reject the agreement in February of 1998 and it was executed in May of 1998. Although this agreement was negotiated by a bi-state employer, it was reviewed and ultimately accepted by the State. Accordingly, the Port Authority Police agreement is a relevant consideration.

The State compares its Police salaries and benefits with seven states that it deems comparable. Those states are Illinois, Pennsylvania, Delaware, Massachusetts, New York, Maryland and Michigan. According to the State, its comparison shows that New Jersey Troopers are compensated better than State Police in these jurisdictions. The STFA maintains that this comparison fails because New Jersey State Police perform functions above and beyond those performed by Police in the states deemed comparable by the State.

Review of the statutes defining State Police responsibilities in the jurisdictions named above reveals that all of the states cited by New Jersey as comparable have all of the core functions listed above, with the exception of Emergency Management. In New Jersey, the Division of State Police is the lead agency for emergency

management. Each of the other State Police agencies is a major component of emergency management, but is not the lead agency.¹¹ Based upon review of the core functions of these state police agencies, I find that they are a valid basis for comparison with the New Jersey Division of State Police.

The record demonstrates that in comparison to State Police in other jurisdictions, New Jersey State Troopers are well compensated and are among the highest paid. However, in addition to the contiguous mid-Atlantic states, the comparison States include one state in the Midwest and one state in New England. Meaningful comparison of salary and benefits with these jurisdictions would require additional information about their economies that is not available or necessary to this proceeding. However, salary increases for state police in other jurisdictions from FY 1996 through FY 1999 has some relevance. The available information regarding salary increases in these jurisdictions shows annual increases of at least 3.5% annually for 1996 through 1998.¹² The salary increases in these jurisdictions, while due less weight than salary increases in New Jersey, are relevant considerations.

¹¹ Compare *N.J.S.A. 53:1-1 et seq.* and *N.J.A.C. 13* with Illinois Statutes c.20, s. 2065, 2 IL, ADC subt. E., Pennsylvania Statutes, 71 P.S. s. 250; PA ADC Title 37 c. 11; Delaware Code Title 11-c.83; Massachusetts General Laws - Part 1, Title II, c. 22c; New York Comp. Codes Rules & Regs, Title 9, McKinneys Consolidated Laws Ex. Law 1.18, Art.11, s.4781, Maryland Code, Title 24, Michigan Stats. c.28.2.

¹² The only information available for 1999 is a 3.2% increase for New York State Police as contained in Arbitrator Martin Scheinman's interest arbitration award. Other salary increases included in that award can be found in footnote 5.

The statute requires that consideration be given to wage increases in private employment. Neither party places great emphasis on comparison with private employment generally. However, review of private sector wage changes compiled by the New Jersey Department of Labor and reported by PERC shows that statewide private sector wages increased 3.4% from 1994 to 1995, 4.3% from 1995 to 1996 and 4.8% from 1996 to 1997. Comparisons with the private sector deserve less weight because there is little relationship between the job duties and functions of Troopers with any occupation in the private sector. The aforementioned data is relevant, but of less weight than the comparisons set forth above.

I conclude, after considering the entire record of this proceeding, that an award which gives most weight to the State Package while also compensating the Troopers for changes in their terms and conditions of employment which are unique to them represents a reasonable determination of compensation issues. This latter consideration is especially significant because it justifies a wage increase more in line with law enforcement comparability, which I also conclude is a relevant factor, at a cost value generally in line with the "State Package" received by other State employees.

This award, which preserves certain aspects of the "State Package," also includes salary increases greater than those provided by the State Package. The award, while comparable, is less than the average increases provided in county and municipal law enforcement agreements. This award is also generally comparable to the

salary increases provided to State Police in the seven states selected by the State for comparison as well as to the interest arbitration award covering the Rutgers Police and the agreement between the Port Authority and the PBA.

Based upon a total annualized base salary figure of \$105,962,849.65 (Trooper 19 Step 9 salary of \$57,122.83 x 1855 Troopers) on June 30, 1996, the amount of the State's proposed increase is zero in the first year (July 1, 1996-June 30, 1997) and zero in the second year (July 1, 1997 – June 30, 1998) with a once time cost of \$1,855,000.00 for the bonus. The cost of the State's proposed increase in the third year (July 1, 1998-June 30, 1999) is \$2,659,667.52 plus rollover of \$540,410.53 into the fourth year. The cost of the State's proposal for the fourth year (July 1, 1999 – June 30, 2000) is \$3,409,601.49 including rollover from the third year, but excluding rollover after June 30, 2000. The STFA has proposed increases of 4.5% effective July 1, 1996, July 1, 1997, July 1, 1998, and July 1, 1999. The difference in the proposals in terms of new money cost is \$4,768,328.23 in the first year (July 1, 1996-June 30, 1997), and \$3,127,903.00 in the second year (July 1, 1997-June 30, 1998), \$3,033,875.09 in the third year (July 1, 1998-June 30, 1999), and \$2,031,853.16 in the fourth year for a total of \$12,961,959.48. Cumulative costs resulting from the effect on overtime, increments, and other benefits would add to the difference.

Based upon this analysis and all of the evidence and arguments submitted, and after applying the statutory criteria, I have determined that the salary schedule contain no wage increase on July 1, 1996. Wage increases shall then be set at 3.75% effective

July 1, 1997, 3.75% effective July 1, 1998, 3.5% effective July 1, 1999 and 1.5% effective January 1, 2000. The average annual percentage increase is 3.12%. Since no increase is awarded in the first year of the agreement, there is no net economic change in the first year of the agreement or from the State's final offer for salary in the first year of the agreement. The net economic change in the second year of the agreement is \$3,973,575.00, \$4,122,615.00 in the third year, \$3,992,066.00 on July 1, 1999 in the fourth year of the agreement and an additional \$853,832.00 on January 1, 2000, also in the fourth year of the agreement. There also is a roll-over cost of \$853,832.00 into the first year of the subsequent agreement. This salary award exceeds the total cost of the State's by \$6,069,268.00 and is less than the STFA's proposal of \$20,399,817.00 by \$7,457,729.00.

The wage package awarded herein would not be justified without also awarding some of the cost savings or cost reduction aspects of the State's proposals. Substantial weight must be accorded to the State's position that wage increases must be accompanied by future cost savings. These two elements are inextricably tied. Specifically, I award the elimination of double increments and the implementation of maintenance payments over a three year period for Troopers beginning with the 119th class at the Police Academy. Significant cost savings will accrue to the State as a result of these modifications.

The State's proposal to modify the provision of double increments to Troopers is warranted, although the award alters the State's proposal. Currently, the Troopers are

granted double increments to allow them to progress through the salary scale to top pay more quickly. The elimination of double increments would slow this process for new Troopers. One purpose of a salary scale is to provide gradual movement to top pay as employees gain experience. Double increments limit the ability of a salary scale to compensate employees commensurate with their experience. Elimination of double increments will restore movement through the salary guide based on annual experience. However, it must be balanced against the expectations of Troopers currently advancing through the salary guide. Therefore, this award eliminates double increments, commencing with the 119th class of Troopers entering the Police Academy. This modification will reap substantial future salary savings to the State. The precise amount cannot be determined but, in general, it will reduce salary increase by 50% as a Trooper moves from minimum to maximum on the salary schedule. I do not award a change in "fast tracking" or the practice of allowing Troopers to jump a job range and an increment level simultaneously.

Another cost savings proposed by the State entails creating a separate compensation system for new hires, beginning with the 118th class at the police years of service. State Troopers also receive an annual maintenance payment. That payment was initiated to compensate Troopers for the hardship of barracks life and has been continued, although troopers have not lived in barracks since the 1970's. Specifically, the State would create a separate salary scale for new hires and would eliminate maintenance pay and tuition reimbursement entirely. The State's proposal would create a two-tiered compensation system for Troopers.

State Troopers perform unique work, in often dangerous or life threatening situations. Teamwork, camaraderie and mutual interdependence are crucial to Troopers' ability to perform their jobs safely and effectively. As this record demonstrates, experienced Troopers are paired with new hires to permit mentoring and to allow inexperienced Troopers to benefit from the experience of more senior members of the force. Placing newly hired Troopers on a different compensation system from more senior Troopers could irrevocably harm the esprit de corps which contributes to the reputation of the New Jersey Division of State Police as the premiere law enforcement agency in the State. Maintaining the current single wage scale for Troopers benefits the public welfare by insuring that the Division continues to attract a large applicant pool for new hires and by furthering the esprit de corps which is necessary for Troopers to function safely and effectively. Therefore, I conclude that new hires will be subject to the same salary scale, tuition reimbursement and shift differential as more senior Troopers, although this award does modify certain other major terms and conditions of employment for the 119th class.

I believe that it would be appropriate to require new hires, beginning with 119th class at the police academy, to earn some benefits during their initial years of service as State Troopers on a gradual phase-in basis. Throughout this proceeding both the STFA and the State have compared maintenance payments to longevity benefits. Unlike most members of law enforcement in New Jersey, Troopers do not receive longevity benefits. Maintenance payments have become an integral part of the compensation system and

consideration for the lack of longevity payments. Because longevity payments are phased in upon achievement of length of service, I conclude that new hire Troopers, beginning with the 119th class, should earn full maintenance payments in three equal installments, receiving the full maintenance benefit at the end of three years of service. The cost savings are prospective, but substantial in nature.

Gradual accrual of maintenance payments will provide significant cost savings to the State. Assuming that the 119th class of Troopers has 110 members and the full maintenance payment at the end of the agreement will approximate \$9,260, the cost savings resulting from this modification will be \$1,018,600 in the first year alone. Cost savings for the 119th class would then decrease by one-third each in the next two years. However, additional cost savings will result with each new class of Troopers. These savings, as well as the elimination of double increments, will substantially modify future labor costs and serve to offset the salary increases provided in this award.

I have considered the remaining statutory criteria in rendering this award. Both parties argue that the rate of increase in the CPI supports their final offer. The STFA asserts that although it has a history of receiving increases that average 2.9% above the CPI, its final offer of 4.5% annually is closer to the CPI than past settlements. The STFA points to other indicators of economic growth, specifically the 5.6% growth in per capita income in New Jersey from 1996 to 1997 as evidence that its final offer is more reasonable than that proposed by State when indicators of economic growth are considered. The State points out that the CPI has increased 69.8% from 1981 to 1996

and Trooper salaries have increased 246% for a Trooper T17, 279% for a Trooper T18 and 269% for a Trooper T19. The State contrasts this increase with lesser increases for nurses (182%), teachers (182%), and corrections officers (230%) over the same period. The State also points to the New Jersey Center on Economic Policy and Education's State of Working in New Jersey 1997, which provides that income levels may have decreased and household income may have declined, depending upon where in New Jersey one lives.

The CPI-U was 2.3% in 1997. As both parties acknowledge, the CPI is not the only relevant factor when considering the cost of living. The terms of this award average 3.12% in rate and 2.81% in payout and are reasonable when CPI data is applied. Additionally, this award includes cost savings provisions which will reduce unit labor costs to below the increases awarded. Flexibility in the area of specialist selection and a 48-hour notice period for scheduled shift changes could also result in cost savings.

A position as a New Jersey State Trooper is highly sought after and difficult to obtain. 4300 individuals sought to become members of the most recent class of State Troopers. 110 new State Troopers graduated from that training class at the Police Academy. Trooper wages and benefits enhance the continuity and stability of employment and this award will maintain the State's ability to attract the best prospects while also providing for future cost savings. I accept the premise that the "supply" of those who seek to become Troopers, which clearly exceeds the "demand," requires a

meaningful moderation in the existing terms and conditions of employment for newly employed Troopers, but a more dramatic reduction beyond that set forth herein is not warranted.

Lastly, the STFA points out that the lawful authority of the employer criterion is directed primarily towards county and municipal governments covered by the CAP Law. The state does not contest this interpretation, but points to the financial impact of an award in excess of its proposal. Therefore, I focus on the financial impact on the State, its residents and taxpayers. The STFA asserts that the financial impact of its proposal on New Jersey's taxpayers is minimal. The STFA calculates that the total cost of its salary proposal is significantly less than 6/10 of one percent. The State cautions that an award in excess of its proposal could result in fewer Troopers patrolling the State's highways and providing other services. The terms of the award, although higher than the State's proposal, are substantially below the costs of the STFA proposal. Review of all of the credible evidence on financial and budgetary issues reflects that the State has the ability to absorb the costs of the award without an adverse impact on the budget or the taxpayers. Future budgets will benefit by the terms set forth for new Troopers.

Accordingly, I respectfully enter the terms of the award.

AWARD

1. All terms of the parties collective negotiations agreement shall be carried forward except as modified by the terms of this award.

2. There shall be a four (4) year agreement commencing July 1, 1996 through June 30, 2000.

3. Article IX, Paragraph A is modified to provide:

Normally, except as Division needs require, and except for reassignment within a section, position vacancies for Specialists will be announced via teletype specifying the appropriate criteria to be met by applicants.

4. Article V, Par. A.4 is modified to provide:

Any scheduled change of shift which is effective on less than forty-eight (48) hours notice to the employee shall cause the entire work obligations so changed to be paid at the overtime rate... The forty-eight (48) hour notice period shall be calculated from the time that the extra work, overtime work, is completed.

5. A joint committee shall be established for the purposes of recommending revisions to existing grievance and disciplinary procedures, including due process. The committee mechanism shall be created by the Office of Employee Relations.

6. The agreement shall be modified to provide that the State shall make every reasonable effort to insure that existing exercise equipment will be repaired or upgraded as necessary on an ongoing basis.

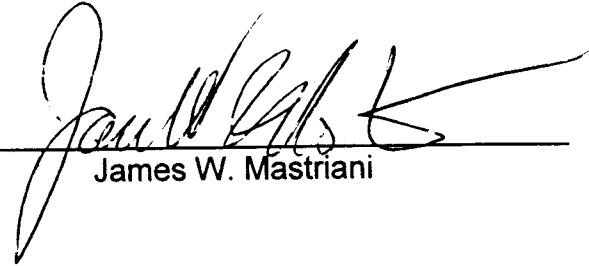
7. The salary schedule shall be modified as follows. All increases shall be retroactive.

July 1, 1996	0%
July 1, 1997	3.75%
July 1, 1998	3.75%
July 1, 1999	3.5%
January 1, 2000	1.5%

8. The maintenance allowance shall be adjusted by the same percentage increases applied to base salaries.

9. Double increments shall be eliminated commencing with the 119th class.

10. Maintenance allowance shall be phased in over a three year period commencing with the 119th class. The first third of the allowance shall be earned at the end of the first year and paid from the beginning to the end of the second year. The second third of the allowance shall be earned at the end of the second year and paid from the beginning to the end of the third year. The last third of the allowance shall be earned at the end of the third year and paid from the beginning to the end of the fourth year.


James W. Mastriani

DATED: December 16, 1998
Sea Girt, New Jersey

State of New Jersey }
County of Monmouth }ss:

On this 16th day of December, 1998, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.



GRETCHEN L. BOONE
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 8/13/2003

